

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**CIVIL MINUTES -- GENERAL**

Case No. **CV 13-7334-JFW**

Date: January 16, 2015

Title: Scott Forrest Collins -v- Kevin Chappell

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**PRESENT:**

**HONORABLE JOHN F. WALTER, UNITED STATES DISTRICT JUDGE**

**Shannon Reilly  
Courtroom Deputy**

**None Present  
Court Reporter**

**ATTORNEYS PRESENT FOR PLAINTIFFS:**

None

**ATTORNEYS PRESENT FOR DEFENDANTS:**

None

**PROCEEDINGS (IN CHAMBERS):      ORDER TO SHOW CAUSE**

On January 6, 2015, Petitioner's counsel filed a supplemental response pursuant to the Court's November 13, 2014 and December 12, 2014 Orders directing Petitioner's counsel to file a response to issues raised by Petitioner in the letters he sent to the Court on November 10, 2014 and December 9, 2014. In their supplemental response, Petitioner's counsel state that they met with Petitioner at the San Quentin State Prison, and after speaking with him, Petitioner has decided that he no longer wishes to withdraw his penalty phase claims nor does he seek the appointment of new counsel. Accordingly, Petitioner's counsel represents that the issues have been resolved and suggests that litigation of the case should continue according to the previously established schedule.

On October 30, 2014, the Court entered an Order based on the parties stipulated briefing schedule re: exhaustion. Pursuant to that Order, Petitioner's counsel were required to file a Motion to Stay Pending Exhaustion within thirty days of the filing of the parties Joint Stipulation re: Exhaustion. Respondent's Opposition and Petitioner's Reply were to be filed according to the local and this Court's rules governing motion practice. On November 5, 2014, Petitioner's counsel filed a Motion to Stay. Because Petitioner's Motion to Stay did not designate a hearing date, on November 7, 2014, the Motion to Stay was stricken. See Docket No. 37. As of the date of this Order, Petitioner has failed to file a Motion to Stay as required by the Court's October 30, 2014, Order.

Accordingly, Petitioner's counsel is ordered to show cause in writing by January 23, 2015, why the Petition should not be dismissed because it contains both exhausted and unexhausted claims. See *Rose v. Lundy*, 455 U.S. 509 (1982). The filing of a properly noticed Motion to Stay Pending Exhaustion will serve to respond to this Order to Show Cause, along with a declaration of counsel explaining their failure to timely file the Motion to Stay.

**IT IS SO ORDERED.**

Initials of Deputy Clerk sr