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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

MATTHEW T. QUEEN,  
Petitioner,  
v.  
WARDEN (A) FRED FOULK, et al.,  
Respondents. } Case No. EDCV 13-802 CAS(JC)  
} ORDER DISMISSING ACTION  
WITHOUT PREJUDICE

On April 30, 2013, petitioner Matthew T. Queen (“petitioner”), a California state prisoner proceeding *pro se*, initiated this action by signing and submitting a Motion for Extension of Time to file a federal petition for writ of habeas corpus challenging his conviction in Riverside County Superior Court Case No. RIF 127080 (“Extension Motion”). Petitioner has not, however, filed a federal petition for writ of habeas corpus in this Court. For the reasons discussed herein, this action is dismissed without prejudice for lack of jurisdiction.

The exercise of federal jurisdiction under the Constitution depends on the existence of a case or controversy. United States Nat'l Bank v. Independent Ins. Agents of America, Inc., 508 U.S. 439, 446 (1993); Johnson v. Weinberger, 851 F.2d 233, 235 (9th Cir. 1988) (Article III, Section 2 of the United States Constitution restricts adjudication in federal courts to cases and controversies). A

1 case or controversy exists when one party demonstrates that it has suffered injury-  
2 in-fact which fairly can be traced to acts or omissions of the second party and when  
3 there is a substantial likelihood that the relief requested will redress the injury  
4 claimed. Johnson, 851 F.2d at 235.

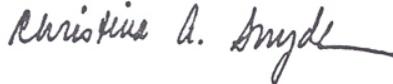
5 A federal court lacks jurisdiction to consider matters relating to a habeas  
6 petition unless and until such a petition is actually filed because there otherwise is  
7 no case or controversy within the meaning of Article III of the Constitution. See  
8 Ford v. Warden, 2008 WL 2676842 (C.D. Cal. 2008) (Constitution's "case or  
9 controversy" jurisdictional requirement precludes giving of advisory opinion that  
10 statute of limitations will not bar anticipated, but not yet filed, federal habeas  
11 petition); United States v. Leon, 203 F.3d 162, 163 (2d Cir. 2000) (granting  
12 government motion to dismiss appeal from order denying motion to submit out of  
13 time petition under 28 U.S.C. § 2255 because no case or controversy in absence of  
14 filing of petition); Calderon v. Ashmus, 523 U.S. 740, 746-49 (1998) (no "case or  
15 controversy" where prisoners sought declaratory relief to determine the time limits  
16 that would govern future habeas actions); see also United States v. Cook, 795 F.2d  
17 987, 994 (Fed. Cir. 1986) (in Fair Labor Standards Act case, district court erred by  
18 tolling statute of limitations in advance of the filing of potentially untimely  
19 claims).

20 Here, because petitioner has not actually filed a federal petition for writ of  
21 habeas corpus in this action, there is no case or controversy to be heard.  
22 Consequently, this Court is without jurisdiction to consider the Extension Request.

23 For the foregoing reasons, this case is dismissed without prejudice.

24 IT IS SO ORDERED.

25 DATED: May 7, 2013

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28 HONORABLE CHRISTINA A. SNYDER  
UNITED STATES DISTRICT JUDGE