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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KENNETH LEWIS FAULKNER,)	1:08-cv-00806 WMW (HC)
)	
Petitioner,)	ORDER DENYING PETITIONER’S
)	MOTION TO STAY
v.)	
)	[Docs. #17, 22]
MULE CREEK STATE PRISON,)	
)	
Respondent.)	

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

Petitioner filed two motions to stay his federal claims while he pursued additional claims in state court and requests leave to add those new claims to his federal petition. (Docs. #17, 22).

DISCUSSION

A district court has discretion to stay a petition which it may validly consider on the merits. Rhines v. Weber, 544 U.S. 269, 277 (2005); Calderon v. United States Dist. Court (Taylor), 134 F.3d 981, 987-88 (9th Cir. 1998); Greenawalt v. Stewart, 105 F.3d 1268, 1274 (9th Cir.), *cert. denied*, 519 U.S. 1102 (1997). However, the Supreme Court recently held that this discretion is circumscribed by the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA). Rhines, 544 U.S. at 277. In

1 light of AEDPA’s objectives, “stay and abeyance [is] available only in limited circumstances” and
2 “is only appropriate when the district court determines there was good cause for the petitioner’s
3 failure to exhaust his claims first in state court.” Id. at 277. Even if Petitioner were to demonstrate
4 good cause for that failure, “the district court would abuse its discretion if it were to grant him a stay
5 when his unexhausted claims are plainly meritless.” Id.

6 In his federal petition, Petitioner already claims six grounds for relief. Petitioner obviously
7 had adequate time to review and research his case in order to file the current claims and he has not
8 shown good cause why this Court should stay his case so that he can pursue new claims. Because
9 NO GOOD CAUSE is showing, Petitioner’s motions to stay these proceedings are DENIED.

10 **ORDER**

11 Accordingly, IT IS HEREBY ORDERED that: both of Petitioner’s Motions to Stay are
12 DENIED.

13 IT IS SO ORDERED.

14 **Dated:** April 30, 2009

/s/ William M. Wunderlich
UNITED STATES MAGISTRATE JUDGE

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