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8	UNITED STATES DISTRICT COURT
9	EASTERN DISTRICT OF CALIFORNIA
10	MICHAEL L. BANKS,) 1:09-cv-00152BAK-SMS HC
11	Petitioner,) ORDER DENYING AS MOOT) PETITIONER'S SECOND MOTION TO
12) PROCEED ON PETITION (Doc. 10)
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14	DEBRA DEXTER,
15	Respondent.
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17 18	PROCEDURAL HISTORY Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus
10	pursuant to 28 U.S.C. § 2254.
20	Petitioner filed his petition on January 26, 2009. (Doc. 1). On February 19, 2009, and again
21	on March 26, 2009, Petitioner filed motions to stay proceedings that were identical. (Docs. 6 & 7).
22	On July 7, 2009, Petitioner file a "motion to proceed on petition," in which Petitioner expressed his
23	wish to forego any stay and continue with the proceedings because, on June 30, 2009, the California
24	Supreme Court had denied his state petition that, apparently, raised the very issue that was the
25	subject of Petitioner's two motions to stay. (Doc. 9). Petitioner indicated that because the issue was
26	now exhausted and because "that issue has already been incorporated in his pending petition," he
27	wished to proceed with the petition as presently constituted. (Id.). Two days later, on July 9, 2009,
28	Petitioner filed a virtually identical motion to proceed on the petition. (Doc. 10).

1	On July 13, 2009, the Court issued an order construing Petitioner's July 7, 2009 "motion to
2	proceed on petition" as a motion to withdraw his two prior motions for stay. (Doc. 14). So
3	construing Petitioner's first motion to proceed, the Court granted that motion and disregarded the
4	two earlier motions for stay. (Id.). However, at the time of the July 13, 2009 order, the Court was
5	unaware Petitioner had filed yet another motion to proceed on July 9, 2009. (Doc. 10). Accordingly,
6	the Court addresses that order now and will deny that motion as moot in light of the Court's order of
7	July 13, 2009.
8	<u>ORDER</u>
9	For the foregoing reasons, the Court HEREBY ORDERS as follows:
10	1. Petitioner's motion to proceed on petition filed on July 9, 2009 (Doc. 10), is DENIED
11	as MOOT in light of the Court's order of July 13, 2009.
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13	IT IS SO ORDERED.
14	Dated:/s/ Jennifer L. ThurstonUNITED STATES MAGISTRATE JUDGE
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