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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOAQUIN RAMON QUIROZ,)	1:09-CV-01131 GSA HC
)	
Petitioner,)	ORDER DENYING PETITIONER'S
)	MOTIONS FOR STAY OF PROCEEDINGS
v.)	
)	[Docs. #2, 5]
KENT CLARK, Warden,)	
)	
Respondent.)	

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. He has returned his consent/decline form indicating consent to Magistrate Judge jurisdiction.

On June 29, 2009, Petitioner filed a petition for writ of habeas corpus. Along with the petition, he filed a motion for stay and abeyance. He filed a second motion for stay on July 10, 2009. Petitioner seeks a stay of his federal proceedings pending exhaustion of unspecified, additional claims.

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, 276 (2005); Calderon v. United States Dist. Court (Taylor), 134 F.3d

1 981, 987-88 (9th Cir. 1998); Greenawalt v. Stewart, 105 F.3d 1268, 1274 (9th Cir.), *cert. denied*, 519
2 U.S. 1102 (1997). However, the Supreme Court recently held that this discretion is circumscribed by
3 the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA). Rhines, 544 U.S. at 276. In
4 light of AEDPA’s objectives, “stay and abeyance [is] available only in limited circumstances” and
5 “is only appropriate when the district court determines there was good cause for the petitioner’s
6 failure to exhaust his claims first in state court.” Id. at 277. Even if Petitioner were to demonstrate
7 good cause for that failure, “the district court would abuse its discretion if it were to grant him a stay
8 when his unexhausted claims are plainly meritless.” Id.

9 In this case, the Court does not find good cause to excuse Petitioner’s failure to exhaust.
10 Petitioner fails to specify the ground he seeks to exhaust; therefore, the Court cannot determine
11 whether a stay would be appropriate. Accordingly, Petitioner’s motions for stay of the proceedings
12 are hereby DENIED.

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IT IS SO ORDERED.

Dated: July 14, 2009

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE