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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

CEDRIC LYNN STRUGGS,  
Petitioner,  
v.  
HEDGPETH,  
Respondent.

1:09-cv-01368 MJS HC

ORDER DENYING PETITIONER'S  
MOTION FOR COURT ORDER TO  
OBTAIN MENTAL HEALTH RECORDS

[Docs. 9, 12]

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Under 28 U.S.C. § 636(c)(1), the parties have consented to the jurisdiction of the United States Magistrate Judge. Local Rule 305(b).

On December 2, 2009, Petitioner filed a motion requesting a court order to obtain mental health records relating to a March 27, 1981 hearing. (Mot. to Obtain Docs., ECF No. 12.) Petitioner states discovery is necessary to correct trial counsel's errors by way of the instant petition. (Decl. of Cedric Struggs, ECF No. 9.) Petitioner has attached copies of his requests for such documents and a response from the Kern County Superior Court that the documents are not available. (Mot. to Obtain Docs. at 3-8.)

"A habeas petitioner, unlike the usual civil litigant in federal court, is not entitled to discovery as a matter of ordinary course." Bracy v. Gramley, 520 U.S. 899, 903-05 (1997).

1 Rule 6(a) of the Rules Governing Section 2254 Cases provides that “[a] judge may, for good  
2 cause, authorize a party to conduct discovery under the Federal Rules of Civil Procedure and  
3 may limit the extent of discovery.” See also Rich v. Calderon, 187 F.3d 1064, 1068 (9th  
4 Cir.1999) (“[D]iscovery is available only in the discretion of the court and for good cause  
5 shown”). Further, Rule 6(b) states that the party requesting discovery “must provide reasons  
6 for the request” and *inter alia*, “must specify any requested documents.”

7 Petitioner’s request will be denied.

8 Petitioner has requested that documents which are nearly thirty years old be produced  
9 by Kern County Superior Court. That court has already advised Petitioner that, not suprisingly  
10 given the age of the requested documents, they are not available. Under these circumstances  
11 and the Court not finding good cause for such discovery, this request for discovery is  
12 DENIED.

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15 IT IS SO ORDERED.

16 Dated: July 16, 2010

*/s/ Michael J. Seng*  
UNITED STATES MAGISTRATE JUDGE

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