## UNITED STATES DISTRICT COURT

## EASTERN DISTRICT OF CALIFORNIA

PEDRO TRUJILLO,	) Case No.:1:12-cv-02087-SAB (HC)
Petitioner,	) ORDER DENYING AS MOOT PETITIONER'S MOTION TO STAY
vs.	) THE PROCEEDINGS
RALPH DIAZ,	) (ECF. No. 2)
Respondent.	)

Petitioner is proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pursuant to 28 U.S.C. § 636(c)(1), Petitioner has consented to the jurisdiction of the United States magistrate judge. Local Rule 305(b).

Petitioner filed the instant petition for writ of habeas corpus on December 28, 2012, along with a motion to stay the proceedings pending exhaustion of one of the three claims presented in the petition. Petitioner states that he filed a petition for writ of habeas corpus in the California Supreme Court on October 31, 2012, in case number S206349.

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). Thus, this court may stay a mixed petition,

i.e., one containing exhausted and unexhausted claims, to allow a petitioner to present unexhausted claims to the state courts. <u>Id.</u>

A review of the California Supreme Court's docket shows that Petitioner's petition for writ of habeas corpus in case number S206349 was denied on January 3, 2013. In light of this denial, Petitioner's claim is no longer pending in state court, and his request to stay this action must be denied as moot. Accordingly,

IT IS HEREBY ORDERED that Petitioner's motion to stay the proceedings pursuant to Rhines is DENIED as MOOT.

IT IS SO ORDERED.

Dated: January 18, 2013 /s/ Stanley A. Boone
UNITED STATES MAGISTRATE JUDGE

<sup>&</sup>lt;sup>1</sup> A court may take judicial notice of court records. <u>See MGIC Indem. Co. v. Weisman</u>, 803 F.2d 500, 505 (9th Cir. 1986); <u>United States v. Wilson</u>, 631 F.2d 118, 119 (9th Cir. 1980).