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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

EMIL JOSEPH EKDAHL,)	Case No.: 1:13-cv-00542-AWI-JLT
)	
Petitioner,	)	ORDER REQUIRING RESPONDENT TO LODGE
	)	TRANSCRIPT OF PAROLE HEARING WITHIN
v.	)	THIRTY DAYS
)	
RALPH DIAZ, Warden,	)	ORDER PERMITTING RESPONDENT TO FILE
	)	MEMORANDUM BRIEF
Respondent.)	
	)	ORDER DENYING PETITIONER'S MOTION
	)	FOR STAY AS MOOT (Doc. 27)
)	
	)	ORDER DENYING AS MOOT PETITIONER'S
	)	MOTION FOR PRODUCTION OF NEW
	)	EVIDENCE (Doc. 30)
)	
	)	ORDER DENYING AS MOOT PETITIONER'S
	)	MOTION FOR STAY (Doc. 31)

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

PROCEDURAL HISTORY

Petitioner filed the instant petition on April 16, 2013. (Doc. 1). On April 19, 2013, the Court ordered Respondent to file a response to the petition within sixty days and set a briefing schedule. (Doc. 5). On June 3, 2013, Respondent filed a motion to dismiss in lieu of filing an answer. (Doc. 14). Petitioner filed his opposition on June 27, 2013. (Doc. 14). On July 26, 2013, the Court

1 issued Findings and Recommendations to grant Respondent’s motion to dismiss. (Doc. 19). In short,
2 the Court determined the motion to dismiss should be granted because there was no showing that, if
3 Petitioner were successful, that this would not necessarily impact the length of his sentence. *Id.*
4 The matter remains pending before the U.S. District Judge for a final decision.

5 On December 19, 2013, Petitioner filed a motion to stay his parole hearing, which was
6 scheduled for February 5, 2014. (Doc. 27) Petitioner asserted that the discipline imposed upon him
7 (which is challenged in this petition) could affect his chance for being granted parole. (Doc. 27). On
8 April 24, 2014, that parole hearing was held and Petitioner was found not suitable for parole. (Doc.
9 30). On May 29, 2014, Petitioner filed a motion to produce the transcript of that hearing, for judicial
10 notice of the results of the parole hearing, and for a stay of proceedings until that transcript can be
11 obtained. Petitioner contends that the transcript contains a statement by a member of the parole board
12 which affirmed, in essence, that but for the discipline at issue in this petition, Petitioner would have
13 been granted parole. (Docs. 30 & 31). Upon this evidence, Petitioner argues that this demonstrates
14 habeas jurisdiction exists.

15 DISCUSSION

16 Regarding Petitioner’s first motion for stay filed on December 19, 2013, that motion is now
17 moot in light of the fact that the parole hearing Petitioner sought to have stayed has already been
18 conducted. Moreover, as a habeas court, this Court may grant or deny a habeas petition filed by a state
19 inmate; however, the Court has absolutely no authority to stay any proceedings of the California Board
20 of Parole Hearings. Accordingly, Petitioner’s motion to stay is **DENIED** as **MOOT**.

21 Regarding Petitioner’s later-filed motions related to obtaining a transcript of the April 24, 2014
22 parole hearing, the Court will order Respondent to obtain and file with the Court a transcript of that
23 hearing in order to confirm or deny Petitioner’s allegation that a member or members of the Board of
24 Parole Hearings represented to Petitioner that “but for” his disciplinary hearing and sanctions resulting
25 from that hearing, the Board would have found Petitioner suitable for parole at the April 24, 2014
26 hearing. Respondent will be permitted to file a memorandum brief along with the transcript, should
27 Respondent wish to do so, addressing whether anything in the parole hearing transcript should affect
28 or alter the Findings and Recommendations issued on July 26, 2013.

ORDER

For the foregoing reasons, the Court **ORDERS**:

1. Petitioner’s motion for stay filed December 19, 2013 (Doc. 27), is **DENIED** as **MOOT**;
2. Respondent **SHALL** lodge a true and correct copy of Petitioner’s April 24, 2014 parole hearing transcript **within 30 days** of the date of this order;
3. **Within 30 days** after filing the transcript, Respondent is granted leave to file a memorandum brief addressing whether anything in the April 24, 2014 transcript should alter or affect the Court’s Findings and Recommendations issued on July 26, 2013;
4. Petitioner’s motion for production of new evidence (Doc. 30), is **DENIED** as **MOOT**; and,
5. Petitioner’s motion for stay until new evidence is reviewed (Doc. 31), is **DENIED** as **MOOT**.

IT IS SO ORDERED.

Dated: September 3, 2014

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE