



1 claims be withdrawn. (Doc. 16). The second criticized this Court for failing to allow Petitioner to  
2 stay proceedings in order to exhaust the unexhausted claims, *even though Petitioner had never filed a*  
3 *request for issuance of a stay.* (Doc. 17).

4 What Petitioner apparently fails to appreciate is that it is not the Court's responsibility to litigate  
5 Petitioner's case for him. ***Nor is it the Court's responsibility to provide legal advice to Petitioner***  
6 ***about what legal processes are open to him and what legal options he should pursue***; that is  
7 Petitioner's responsibility. It was not this Court's obligation to explain the legal parameters of granting  
8 stays of proceedings. If Petitioner had wanted to exhaust his unexhausted claims in state court, he  
9 could simply have filed a motion making that request. Filing motions that serve the sole purpose of  
10 criticizing the Court for failing to act on Petitioner's behalf are a waste of the Court's limited judicial  
11 resources.

12 However, in an effort to *once again* give Petitioner the benefit of the doubt, the Court will  
13 grant Petitioner thirty days within which to file a proper motion to stay proceedings to exhaust the two  
14 unexhausted claims. If Petitioner chooses not to file such a motion, then, after expiration of the thirty-  
15 day period, the Court will grant the motion to dismiss the two unexhausted claims (Doc. 16), and the  
16 case will proceed on the remaining exhausted claims. If Petitioner files a proper motion for stay  
17 (either under the Ninth Circuit's approach in Kelly v. Small, 315 F.3d 1063, 1070 (9<sup>th</sup> Cir. 2004), or  
18 under the U.S. Supreme Court's approach in Rhines v. Weber, 544 U.S. 269, 125 S.Ct. 1528 (2005)),  
19 the Court will consider the merits of such a request and issue the appropriate orders in due course.

20 Accordingly, it is HEREBY ORDERED that Petitioner is granted thirty days from the date of  
21 service of this order within which to file, should he so desire, a motion for a stay of proceedings to  
22 exhaust unexhausted claims. Upon expiration of the thirty-day period, if no motion to stay has been  
23 filed, the Court will grant Petitioner's motion to withdraw the unexhausted claims.

24  
25 IT IS SO ORDERED.

26 Dated: July 9, 2014

/s/ Jennifer L. Thurston  
UNITED STATES MAGISTRATE JUDGE