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9	UNITED STATES DISTRICT COURT	
10	EASTERN DISTRICT OF CALIFORNIA	
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12	JASON S. HARPER,	CASE No. 1:14-cv-00115-AWI-MJS
13	Plaintiff,	ORDER DENYING PLAINTIFF'S MOTION FOR AN INDEFINITE STAY
14	V.	(ECF No. 41)
15 16	CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, et al.,	
17	Defendants.	
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19	Plaintiff Jason S. Harper is a state prisoner proceeding pro se and in forma	
20	pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. (ECF No. 1.)	
21	On January 30, 2015, Plaintiff filed a motion for an indefinite stay. (ECF No. 41.)	
22	He asks the court to stay proceedings until 30 days after a state court issues rulings in	
23	two unrelated cases because: (1) one of the rulings will better enable Plaintiff to oppose	
24	the motion for summary judgment in the instant case (ECF No. 35); and (2) the delay will	
25	give him additional time "to come back to the institution ¹ to receive his property and	
26	¹ Plaintiff does not make clear which institution he means. He mentions "being transferred back to the Riverside Courthouse without his property (legal documents)." The Court is not certain whether Plaintiff means he himself will be or has been transferred somewhere where he will not or does not have access to his documents, or whether one of his cases is being transferred, and somehow because of this he does	
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28	not have his legal documents.	ing transferred, and somenow because of this he does

1 properly respond."

2 "The district court has broad discretion to stay proceedings as an incident to its 3 power to control its own docket." Clinton v. Jones, 520 U.S. 681, 706–07 (1997), citing 4 Landis v. North American Co., 299 U.S. 248, 254 (1936). "The proponent of the stay 5 bears the burden of establishing its need." Id. at 706. The Court considers the following 6 factors when ruling on a request to stay proceedings: (1) the possible damage which 7 may result from the granting of a stay, (2) the hardship or inequity which a party may 8 suffer in being required to go forward, and (3) the orderly course of justice, measured in 9 terms of the simplifying or complicating of issues, proof, and questions of law which 10 could be expected to result from a stay. Filtrol Corp. v. Kelleher, 467 F.2d 242, 244 (9th 11 Cir. 1972)(quoting CMAX, Inc. v. Hall, 300 F.2d 265, 268 (9th Cir. 1962)).

12 Neither of Plaintiff's proffered grounds demonstrates the need for a stay. First, 13 Plaintiff provides no reason why he might need a court order in an unrelated case to 14 oppose the motion for summary judgment in this case. Defendants here have moved for 15 summary judgment on the grounds that plaintiff has not exhausted his administrative 16 remedies. (ECF No. 35). Plaintiff does not need a court order to show that he has, in fact, exhausted his administrative remedies. To the extent that Plaintiff intends to argue, 17 as he suggests he does, that there was "a denial of access to the appeals process" that 18 19 prevented him from exhausting his remedies, he may make this argument and set forth 20 facts supporting it in a sworn declaration without a court order.

Second, proceedings need not be stayed indefinitely to allow Plaintiff to regain
access to his legal materials. There is no reason to believe that this transfer will result in
anything but a temporary separation between Plaintiff and his property. Such a
temporary obstacle to meeting filing deadlines does not justify an indefinite stay. <u>See</u>
<u>Young v. I.N.S.</u>, 208 F.3d 1116, 1119 (9th Cir. 2000)(strength of justification for stay
should balance length of any stay granted).

Additionally, staying this action would create a risk of prejudice to the Defendant.
"[D]elay inherently increases the risk that witnesses' memories will fade and evidence

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1	will become stale". Davis v. Walker, 745 F.3d 1303, 1309 (9th Cir. 2014)(citations	
2	omitted); see Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976)(a presumption of	
3	injury arises from delay in resolving an action). Delay also disrupts the Court's	
4	schedules.	
5	If Plaintiff needs a discrete, limited extension of time to meet a deadline set by this	
6	Court, he may request it, along with an explanation of why the extension is necessary.	
7	See Eldridge v. Block, 832 F.2d 1132, 1136 (9th Cir. 1987). Lack of access to legal	
8	documents is an acceptable ground for an extension of time. Id.; see also, e.g., Bennett	
9	<u>v. King</u> , 293 F.3d 1096, 1098 (9th Cir. 2002).	
10	For the foregoing reasons, Plaintiff's Motion for an Indefinite Stay (ECF No. 41) is	
11	DENIED, without prejudice.	
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13	IT IS SO ORDERED.	
14	Dated: <u>February 6, 2015</u> Isl Michael J. Seng	
15	UNITED STATES MAGISTRATE JUDGE	
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