



1 opportunity to consider all claims before the petitioner presents them to the federal court. *Picard v.*  
2 *Connor*, 404 U.S. 270, 276 (1971). "[P]etitioners who come to federal courts with 'mixed' petitions  
3 run the risk of forever losing their opportunity for federal review of the unexhausted claims.  
4 *Rhines*, 544 U.S. at 275.

5 Federal district courts should stay mixed petitions only in limited circumstances. *Id.* at 277.  
6 A district court may stay a mixed petition if (1) the petitioner demonstrates good cause for failing to  
7 have first exhausted all claims in state court; (2) the claims potentially have merit; and (3) the  
8 petitioner has not been dilatory in pursuing the litigation. *Id.* at 277-78. Petitioner has failed to  
9 establish any of these three elements.  
10

11 **A. Failure to Specify Unexhausted Claims**

12 Petitioner's failure to indicate the additional unexhausted claims that he seeks to pursue  
13 precludes the issuance of stay and abeyance for two reasons. First, without knowing the claims that  
14 Petitioner seeks to pursue, the Court cannot determine whether those claims potentially have merit.  
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16 Second, "a district court shall entertain an application for a writ of habeas corpus in behalf  
17 of a prisoner in custody pursuant to the judgment of a State court only on the ground that he is in  
18 custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. §  
19 2254(a). Because Petitioner does not allege the claims for which he seeks an order of stay and  
20 abeyance, the Court is unable to determine whether any of the additional claims constitute a  
21 violation of the U.S. Constitution or federal laws or treaties. When a petition includes no mention  
22 of any federal grounds, a district court may appropriately dismiss it. *Burkey v. Deeds*, 824 F.Supp.  
23 190, 193 (D.Nev. 1993).  
24

25 **B. Failure to Allege Good Cause With Specificity**

26 Although Petitioner acknowledges the necessity to allege good cause under *Rhines*, he  
27 merely refers vaguely to "extenuating circumstances," without specifically advising the Court of  
28

1 what those circumstances are. In the absence of specific factual allegations, the Court cannot  
2 determine that good cause exists for Petitioner's failure to exhaust the additional claims.

3 **C. Pursuit of Litigation**

4 The motion is completely silent on the question of Petitioner's diligent pursuit of the  
5 litigation necessary to exhaust the additional claims.

6 **II. CONCLUSION AND ORDER**

7 Petitioner's having alleged no factual basis to establish the elements necessary for an order  
8 of stay and abeyance, the Court hereby DENIES the motion for stay and abeyance without  
9 prejudice.  
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11  
12 IT IS SO ORDERED.

13 Dated: December 3, 2014

/s/ Sandra M. Snyder  
14 UNITED STATES MAGISTRATE JUDGE