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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

**RICK ALAN PETROVICH,**  
Petitioner,  
  
**v.**  
  
**KELLY SANTORO, Warden,**  
Respondent.

Case No. 1:15-cv-01546 MJS (HC)  
**ORDER TO SHOW CAUSE WHY MOTION  
TO STAY PETITION FOR WRIT OF  
HABEAS CORPUS SHOULD BE  
GRANTED**  
  
[Doc. 3]

Petitioner is a state prisoner proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

Petitioner filed the instant petition on October 13, 2015. On the same date, Petitioner filed a motion to stay the proceedings. (Mot. to Stay, ECF No. 3.) Petitioner requests the Court stay his petition while he proceeds to attempt to exhaust his state court remedies. Petitioner explains that his attempts to exhaust his state court remedies have culminated in the filing of a petition for writ of habeas corpus with the California Supreme Court on September 30, 2015. (Pet., ECF No. 1 at 3.)

1 **I. LEGAL STANDARD**

2 The exhaustion of available state remedies is a prerequisite to a federal court's  
3 consideration of claims presented in habeas corpus proceedings. See Rose v. Lundy,  
4 455 U.S. 509, 102 S.Ct. 1198, 71 L. Ed. 2d 379 (1982); 28 U.S.C. § 2254(b). A petitioner  
5 satisfies the exhaustion requirement by providing the highest state court with a full and  
6 fair opportunity to consider all claims before presenting them to the federal court. Picard  
7 v. Connor, 404 U.S. 270, 276, 92 S. Ct. 509, 30 L. Ed. 2d 438 (1971); Middleton v.  
8 Cupp, 768 F.2d 1083, 1086 (9th Cir. 1985).

9 While a Petitioner is seeking to exhaust his state court remedies, a court may stay  
10 a petition and hold it in abeyance pursuant to either Kelly v. Small, 315 F.3d 1063 (9th  
11 Cir. 2002), or Rhines v. Weber, 544 U.S. 269, 125 S. Ct. 1528, 161 L. Ed. 2d 440  
12 (2005). See King v. Ryan, 564 F.3d 1133, 1135 (9th Cir. 2009).

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14 **II. ANALYSIS**

15 Petitioner states in the motion that he filed a petition for writ of habeas corpus with  
16 the California Supreme Court on September 30, 2015, and is awaiting a response.  
17 However, the California Supreme Court website reflects that the petition was denied on  
18 January 20, 2015. Thus, it appears Petitioner's state claims are exhausted, the motion to  
19 stay the present petition is moot and that this Court can proceed to review the merits of  
20 the petition. Accordingly, Petitioner is ordered to show cause why the motion to stay  
21 should be granted in light of the ruling on his state court petition for writ of habeas  
22 corpus. The response should include relevant copies of the state court petitions and the  
23 order denying the petition filed with the California Supreme Court.

24  
25 **III. CONCLUSION AND ORDER**

26 Accordingly, it is ORDERED that Petitioner is to show cause why his motion to  
27 stay the petition (ECF No. 3) should not be denied as moot. Petitioner must file a  
28 response to this order to show cause, including the relevant state court petitions and

