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

KENNETH A. JACKSON,	)	Case No.: 1:17-cv-01670-JLT (HC)
Petitioner,	)	
v.	)	ORDER CONSTRUING MOTION FOR
	)	EXTENSION OF TIME AS MOTION TO STAY
	)	PROCEEDINGS (Doc. 12)
	)	
ERIC ARNOLD,	)	ORDER STAYING PROCEEDINGS AND
Respondent.	)	DIRECTING PETITIONER TO FILE REGULAR
	)	STATUS REPORTS
	)	

Petitioner filed a habeas petition in this Court on December 8, 2017. After conducting a preliminary review of the petition, the Court determined that Petitioner had failed to state a claim and had failed to exhaust state remedies. The Court granted him leave to file an amended petition to correct these deficiencies if he could do so. Since then, he has filed motions for extensions of time and stated he was returning to state court to exhaust his state remedies. He seeks an extension of time until the California Supreme Court renders a decision on his petition. Essentially, he is requesting a stay of proceedings until he completes exhaustion of this state remedies. Accordingly, the Court will construe his motion for extension of time as a motion to stay proceedings.

**DISCUSSION**

Traditionally, a district court has had the discretion to stay a petition which it may validly consider on the merits. Calderon v. United States Dist. Court (Taylor), 134 F.3d 981, 987-988 (9<sup>th</sup> Cir.

1 1998); Greenawalt v. Stewart, 105 F.3d 1268, 1274 (9<sup>th</sup> Cir.), *cert. denied*, 519 U.S. 1002 (1997).

2 Granting a stay is appropriate where there is no intention on the part of the Petitioner to delay or  
3 harass and in order to avoid piecemeal litigation. Id.

4 Petitioner states he has filed a petition in the California Supreme Court and is currently  
5 awaiting a ruling. It appears to the Court that Petitioner is attempting to exhaust his claims in a timely  
6 and expeditious manner, and there is no indication that Petitioner intends to harass or delay the  
7 proceedings, nor does it appear that Petitioner is engaging in dilatory conduct. Therefore, good cause  
8 having been presented, the Court will grant a stay of the proceedings and will hold the petition for writ  
9 of habeas corpus in abeyance pending exhaustion of Petitioner's state remedies.

10 However, the Court will not indefinitely hold the petition in abeyance. See Taylor, 134 F.3d at  
11 988 n. 11. No later than 30 days after the date of service of this Order Petitioner must inform the  
12 Court of the status of the habeas proceedings in state court, including the dates his cases were filed, the  
13 case numbers, and any outcomes.<sup>1</sup> Furthermore, Petitioner must proceed diligently to pursue his state  
14 court remedies, and every 60 days after the filing of the initial status report Petitioner must file a *new*  
15 status report regarding the status of his state court habeas corpus proceedings. Following final action  
16 by the state courts, Petitioner will be allowed 30 days within which to file a motion for leave to amend  
17 the instant petition to include the newly exhausted claims. The petition should be titled "First  
18 Amended Petition," and it must set forth only grounds he has exhausted in the state courts. Further, he  
19 must state cognizable grounds for relief as discussed in the Court's screening order of December 18,  
20 2017. (Doc. 6.) Failure to comply with these instructions and time allowances will result in this Court  
21 vacating the stay *nunc pro tunc* to the date of this order.

## 22 **ORDER**

23 Accordingly, the Court **ORDERS**:

- 24 1. Petitioner's motion for extension of time (Doc. 12) is construed as a motion to stay the  
25 instant proceedings on his habeas petition;
- 26 2. Petitioner motion to stay proceedings is **GRANTED** and proceedings are **STAYED**

27 \_\_\_\_\_  
28 <sup>1</sup>The filing should be entitled "Status Report."

1 pending exhaustion of Petitioner's state remedies;

2 3. Petitioner **SHALL** file a status report within 30 days of the date of service of this order,  
3 advising the Court of the status of all pending habeas proceedings filed in state court, the dates when  
4 such cases were filed, and any outcomes;

5 4. Petitioner **SHALL** file a new status report every 60 days after the filing of the initial status  
6 report; and

7 5. Petitioner is **GRANTED** 30 days following the final order of the state courts within which  
8 to file a First Amended Petition to include only exhausted claims.

9  
10 IT IS SO ORDERED.

11 Dated: April 13, 2018

/s/ Jennifer L. Thurston  
12 UNITED STATES MAGISTRATE JUDGE