

E-Filed

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 08-256-GHK	Date	July 10, 2009
Title	<i>Marquiest Leon Murphy v. Tom Felker</i>		

Presiding: The Honorable **GEORGE H. KING, U. S. DISTRICT JUDGE ,
SITTING BY DESIGNATION**

Beatrice Herrera	N/A	N/A
Deputy Clerk	Court Reporter / Recorder	Tape No.

Attorneys Present for Plaintiffs:
None

Attorneys Present for Defendants:
None

Proceedings: (In Chambers) Order re: Petitioner’s Motion for Stay and Abeyance of His Habeas Petition

Petitioner seeks to stay and abey his habeas petition pending further exhaustion of state remedies. We may grant such relief if: (1) the petitioner has “good cause” for his failure to exhaust his claims in state court; (2) the unexhausted claims are potentially meritorious; and (3) there is no indication that petitioner engaged in dilatory litigation tactics. *See Wooten v. Kirkland*, 540 F.3d 1019, 1023 (9th Cir. 2008), citing *Rhines v. Webster*, 544 U.S. 269, 278 (2005).

The purported recantation of Dennis Blackwell, the only witness who testified at trial that petitioner was the shooter, may affect petitioner’s habeas claims alleging evidence insufficiency. However, petitioner fails to provide enough information for the Court to adequately assess whether a stay is appropriate.

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Thus, the Court **ORDERS** petitioner to show cause in writing why the Court should grant a stay. Specifically, petitioner shall provide the following information:

1. The date petitioner filed his state habeas petition.
2. The first date on which petitioner learned of Blackwell's recantation.
3. The way in which petitioner first learned about Blackwell's recantation.
4. The nature and substance of Blackwell's alleged recantation of his trial testimony.
5. The specific claim(s) in petitioner's federal habeas petition on which Blackwell's recantation has an impact.
6. The nature and substance of any such alleged impact of Blackwell's recantation on the specified federal habeas claim(s).

Petitioner must show cause in writing by addressing the foregoing by Wednesday, **July 29, 2009**, failing which the Court will deem his motion for stay and abey abandoned.

Respondent may respond to petitioner's showing within 14 days of the date petitioner files his response.

