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

TENG YANG,

Petitioner,

No. CIV S-08-2233 KJM P

vs.

D. K. SISTO,

Respondent.

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TENG YANG,

Petitioner,

No. CIV S-09-2578 KJM P

vs.

CHARLES DEROSA,

Respondent.

ORDER

_____ /

Petitioner is a California prisoner proceeding pro se with an application for writ of habeas corpus under 28 U.S.C. § 2254 in each of the above-titled actions. On December 21, 2009, petitioner filed a motion in CIV S-08-2233 KJM P requesting a stay so that he can exhaust state court remedies with respect to five claims. Petitioner already presented a motion to stay in CIV S-09-2578 KJM P (see docket entry #3) and the motion was denied on March 18, 2010.

1 Although the motion filed in this case is signed by petitioner, the substance of the motion is the
2 same; the court has no cause to reconsider the March 18, 2010 order entered in CIV S-09-2578
3 KJM P. Therefore, petitioner's motion for a stay in CIV S-08-2233 KJM P will be denied.

4 On May 7, 2010 in CIV S-09-2578 KJM P, the court ordered respondent to file a
5 response within sixty days to petitioner's April 12, 2010 amended petition for writ of habeas
6 corpus. The April 12, 2010 amended petition filed in CIV S-09-2578 KJM P is essentially the
7 same as the amended petition filed December 21, 2009 in CIV S-08-2233 KJM P, except that the
8 five unexhausted claims mentioned above are included in the December 21, 2009 petition. The
9 court has not yet ordered respondent to respond to the December 21, 2009 petition.

10 Good cause appearing, CIV S-09-2578 KJM P will be closed and petitioner will
11 proceed in CIV S-08-2233 KJM P. The order directing respondent to file a response to the April
12 12, 2010 amended petition in CIV S-09-2578 KJM P will be vacated and respondent will be
13 directed to file a response to the December 21, 2009 amended petition filed in CIV S-08-2233
14 KJM P. Respondent need only respond to claims one through five.

15 Accordingly, IT IS HEREBY ORDERED that:

- 16 1. Petitioner's motion for a stay in CIV S-08-2233 KJM P (#51) is denied.
- 17 2. The May 7, 2010 order in CIV S-09-2578 KJM P directing respondent to file a
18 response to petitioner's April 12, 2010 amended application for writ of habeas corpus is vacated.
- 19 3. Case CIV S-09-2578 KJM P is closed.
- 20 4. Respondent is directed to file a response to the December 21, 2009 amended
21 petition for writ of habeas corpus filed in CIV S-08-2233 KJM P within sixty days from the date
22 of this order. See Rule 4, Fed. R. Governing § 2254 Cases. An answer shall be accompanied by
23 all transcripts and other documents relevant to the issues presented in the petition. See Rule 5,
24 Fed. R. Governing § 2254 Cases. Respondent need only respond to claims one through five in
25 the amended petition.

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1 5. If the response to the amended petition is an answer, petitioner's reply, if any,
2 shall be filed and served within thirty days after service of the answer.

3 6. If the response to the habeas petition is a motion, petitioner's opposition or
4 statement of non-opposition to the motion shall be filed and served within thirty days after
5 service of the motion, and respondent's reply, if any, shall be filed and served within fourteen
6 days thereafter.

7 7. The Clerk of the Court shall serve a copy of this order, the
8 consent/reassignment form contemplated by Appendix A(k) to the Local Rules of this court, and
9 a copy of the amended petition for writ of habeas corpus filed in CIV S-08-2233 KJM P on
10 December 21, 2009 on Michael Patrick Farrell, Senior Assistant Attorney General.

11 DATED: May 18, 2010.

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15 U.S. MAGISTRATE JUDGE
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