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

CHRISTOPHER BOYD CROCKETT,

Petitioner,

No. CIV S-09-3501 DAD P

vs.

GEORGE A. NEOTTI,

Respondent.

ORDER

\_\_\_\_\_ /

Petitioner is a state prisoner proceeding pro se with a petition for a writ of habeas corpus pursuant to 42 U.S.C. § 2254. On January 4, 2010, the court determined that petitioner had filed a mixed petition, containing both exhausted and unexhausted claims. The court ordered petitioner to inform the court on how he intended to proceed in light of that fact. On January 15, 2010, petitioner filed a motion for a stay and abeyance.

However, petitioner’s motion for a stay and abeyance is defective in that he did not address the following requirements for the issuance of a stay: (1) showing good cause for his failure to exhaust all claims prior to filing this action, (2) identifying the unexhausted claim or claims and demonstrating that such claims are potentially meritorious, (3) describing the status of state court proceedings on the unexhausted claim or claims, and (4) demonstrating that he has acted with diligence in pursuing the new claim or claims. See Rhines v. Weber, 544 U.S. 269,

1 277 (2005). Therefore, the court will deny petitioner's motion and provide him with a final  
2 opportunity to file a proper motion seeking a stay and abeyance. Petitioner is cautioned that  
3 should he fail to file a timely motion, this action will proceed only with respect to the exhausted  
4 claim or claims set forth in the petition pending before this court.

5 Accordingly, IT IS HEREBY ORDERED that:

6 1. Petitioner's January 15, 2010 motion for a stay and abeyance (Doc. No. 6) is  
7 denied without prejudice; and

8 2. Within thirty days from the service of this order, petitioner shall file his motion  
9 for a stay and abeyance as set forth above.

10 DATED: January 25, 2010.

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14 DALE A. DROZD  
15 UNITED STATES MAGISTRATE JUDGE

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