

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

NICOLE CARROLL,

Petitioner,

No. CIV S-10-0159 KJM P

vs.

WARDEN, VALLEY STATE
PRISON FOR WOMEN,

Respondent.

ORDER

_____/

Ms. Carroll, a state prisoner, has filed a “motion to stay her Federal Petition for Habeas Corpus, to exhaust her state remedies due to pending State Habeas in Superior Court.” Docket Entry #1 at 40. While Ms. Carroll has submitted a copy of the petition pending in state court, she has not filed a petition for federal habeas relief. Good cause appearing, the court will grant Ms. Carroll thirty days within which to file an application for writ of habeas corpus under 28 U.S.C. § 2254. If she does not file a federal petition within thirty days, this case will be dismissed. Also, if the petition does not contain at least one claim for which state court remedies have been exhausted, the petition will be dismissed. See 28 U.S.C. § 2254(b)(1).

The court notes that Ms. Carroll has filed an application to proceed in forma pauperis and has paid the filing fee for a § 2254 action. Because the filing fee has been paid, the in forma pauperis application will be denied as unnecessary.

1 Accordingly, IT IS HEREBY ORDERED that:

2 1. Ms. Carroll's motion for a stay is denied.

3 2. Ms. Carroll's application to proceed in forma pauperis (#5) is denied.

4 3. Ms. Carroll is granted thirty days within which to file an application for writ of
5 habeas corpus under 28 U.S.C. § 2254. If the petition does not contain at least one claim where
6 state court remedies have been exhausted, the petition will be dismissed. Ms Carroll's failure to
7 file a federal petition within thirty days will result in this action being dismissed.

8 4. The Clerk of the Court shall send Ms. Carroll the court's form application for
9 writ of habeas corpus under 28 U.S.C. § 2254.

10 DATED: May 18, 2010.

11 
12 _____
13 U.S. MAGISTRATE JUDGE
14
15
16
17
18
19
20
21
22
23
24
25