

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

CANDICE LEWIS,

Petitioner,

No. CIV S-11-0423 LKK EFB F

VS.

WALTER MILLER,

### Respondent.

## ORDER

Petitioner is a state prisoner with counsel seeking a writ of habeas corpus. *See* 28 U.S.C. § 2241. Currently pending are petitioner’s motion to stay and hold this action in abeyance until petitioner claims are exhausted, and respondent’s motion to dismiss because the petition contains unexhausted claims. Dckt. Nos. 3, 11. Petitioner raised the unexhausted claims in a petition for writ of habeas corpus filed in the California Supreme Court in Case No. S193203. *See* Dckt. No. 14, Ex C. A copy of the California Supreme Court’s docket shows that it issued a decision in Case No. S193203 on July 13, 2011.<sup>1</sup> Because it appears the petition no longer contains unexhausted claims, petitioner’s motion to stay, and respondent’s motion to dismiss, will be denied as moot.

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<sup>1</sup> A court may take judicial notice of court records. See *MGIC Indem. Co. v. Weisman*, 803 F.2d 500, 505 (9th Cir. 1986); *United States v. Wilson*, 631 F.2d 118, 119 (9th Cir. 1980).

1           Accordingly, IT IS HEREBY ORDERED that:

2           1. Petitioner's February 14, 2011 motion to stay is denied as moot.

3           2. The August 10, 2011 hearing on respondent's motion to dismiss is vacated.

4           3. Respondent's April 19, 2011 motion to dismiss is denied as moot.

5           4. Respondent shall file and serve an answer in response to petitioner's application  
6 within 60 days from the date of this order. *See* Rule 4, Fed. R. Governing § 2254 Cases. Any  
7 response shall be accompanied by any and all transcripts or other documents relevant to the  
8 determination of the issues presented in the application. *See* Rules 4, 5, Fed. R. Governing  
9 § 2254 Cases.

10           5. Petitioner's reply, if any, shall be filed and served within 30 days of service of an  
11 answer.

12           Dated: July 19, 2011.



13           EDMUND F. BRENNAN  
14           UNITED STATES MAGISTRATE JUDGE