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

CHOKCHAI KRONGKEIT,

Petitioner,

No. 2:11-cv-2354 GEB CKD P

vs.

MATTHEW CATE,

Respondent.

ORDER

_____ /

Petitioner is a California prisoner proceeding pro se with a petition for writ of habeas corpus under 28 U.S.C. § 2254. He requests that the court stay this action so he may exhaust state court remedies as to two new claims: 1) he was denied due process because he pled guilty without an adequate understanding of the consequences; and 2) his rights under the Sixth and Fourteenth Amendments were violated when he was denied an interpreter at his preliminary hearing. Respondent opposes a stay. The court has discretion to stay a fully exhausted habeas petition to allow the petitioner to exhaust state court remedies with respect to additional claims. See e.g. Kelly v. Small, 315 F.3d 1063 (9th Cir. 2003).

Petitioner fails to provide any facts in support of his first claim. That being the case, the court cannot find there is any good reason to allow petitioner a stay so that he may exhaust state court remedies. Likewise a stay is not appropriate with respect to petitioner's

1 second claim because petitioner has no federal right to a preliminary hearing. See e.g. Peterson
2 v. California, 604 F.3d 1166, 1169 (9th Cir. 2010). Since habeas relief under 28 U.S.C. § 2254
3 can only be granted for violations of federal law, the court could not grant petitioner relief on his
4 second claim even if state court remedies were exhausted.

5 For these reasons, petitioner's request for a stay will be denied. Petitioner
6 requests that if the court denies a stay, petitioner be granted an extension of time to file his
7 traverse. Good cause appearing, that request will be granted.

8 Accordingly, IT IS HEREBY ORDERED that:

- 9 1. Petitioner's May 1, 2012 request for a stay is denied.
- 10 2. Petitioner's May 1, 2012 request for an extension of time is granted.
- 11 3. Petitioner shall file his traverse within 30 days of this order.

12 Dated: June 11, 2012

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14 CAROLYN K. DELANEY
15 UNITED STATES MAGISTRATE JUDGE

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