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

AARON MEYERS,

Petitioner,

No. 2:12-cv-0958 GEB JFM P

vs.

WARDEN OF CENTINELA STATE  
PRISON,

Respondent.

ORDER

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Petitioner is a state prisoner proceeding pro se with an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner challenges his 2009 conviction on charges of first degree murder and a finding that he personally and intentionally discharged a firearm in the commission of the crime. Petitioner raises four claims in his petition, filed on or about April 10, 2012.

On June 6, 2012, respondent moved to dismiss the petition on the ground that petitioner failed to exhaust state court remedies with respect to claims two, three and four of the petition. Petitioner failed to timely file a response to the motion. For that reason, on July 31, 2012, petitioner was ordered to file either an opposition to the motion or a statement of non-opposition within thirty days. On August 29, 2012, petitioner filed a motion for extension of time, which was granted by order filed September 10, 2012.

1 By order filed January 3, 2013, the court found that petitioner had failed to  
2 exhaust state court remedies as to his second, third and fourth claims for relief and, therefore,  
3 that the original petition in this action is a mixed petition containing both exhausted and  
4 unexhausted claims which must be dismissed unless petitioner seeks and obtains a stay of these  
5 proceedings to exhaust state court remedies with respect to those claims. See Order filed  
6 January 3, 2013, at 2-3. The court therefore granted petitioner sixty days to file either a motion  
7 to stay these proceedings or an amended petition raising only his exhausted claim, and deferred  
8 ruling on respondent's motion to dismiss.

9 On March 11, 2013, petitioner filed a petition for writ of habeas corpus. The  
10 petition names the California Supreme Court as respondent, bears a different case number than  
11 the one assigned to this action, and contains petitioner's three unexhausted claims for relief. It  
12 was not accompanied by a motion to stay these proceedings. Accordingly, by order filed March  
13 20, 2013, petitioner was granted one additional period of fifteen days in which to clarify whether  
14 the petition for writ of habeas corpus filed in this action on March 11, 2013, is a copy of a  
15 petition that he has also filed in the California Supreme Court and, if so, whether he seeks to  
16 stay this action pending disposition of that state court action. Petitioner was cautioned that  
17 failure to comply with this order will result in the dismissal of his original petition for writ of  
18 habeas corpus on the ground that it is a mixed petition containing unexhausted claims.

19 On May 3, 2013, petitioner filed a letter. It appears from the letter that the  
20 petition filed in this court on March 11, 2013, was intended for the California Supreme Court,  
21 and petitioner asks whether this court can transfer such petition to the California Supreme Court  
22 or whether he must redo the petition. Petitioner has not filed a motion to stay these proceedings.

23 Petitioner is hereby informed that this court cannot file a petition for writ of  
24 habeas corpus on his behalf in the California Supreme Court. Good cause appearing, the Clerk  
25 of the Court will be directed to send petitioner a copy of the March 11, 2013 petition together  
26 with a copy of this order. Petitioner will be informed of the address of the California Supreme

1 Court to which documents to be filed in that court should be mailed. Petitioner will also be  
2 granted one final period of twenty days in which to file in this court a motion to stay these  
3 proceedings pending exhaustion of state court remedies as to his unexhausted claims.

4 In accordance with the above, IT IS HEREBY ORDERED that:

5 1. The Clerk of the Court is directed to send petitioner a copy of the petition for  
6 writ of habeas corpus filed in this court on March 11, 2013 (ECF No. 21) so that petitioner may  
7 mail a copy of that petition to the California Supreme Court for filing in that court.

8 2. Petitioner is informed that the mailing address for the California Supreme  
9 Court is: Clerk, California Supreme Court, 350 McAllister Street, San Francisco, CA 94102-  
10 4797.

11 3. Petitioner is granted twenty days from the date of this order to file in this  
12 action a motion to stay these proceedings.

13 DATED: June 10, 2013

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16 KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

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