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

RICHARD VINCENT ROOD,

Petitioner,

No. 2:12-cv-1476 GGH P

vs.

GARY SWARTHOUT,

Respondent.

ORDER

_____ /

Petitioner, a state prisoner proceeding pro se, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. This case is before the undersigned pursuant to petitioner’s consent. Doc. 7. On July 5, 2012, the court noted that the petition contained one claim that appeared fully exhausted, however petitioner also filed a motion to appoint counsel to look into new evidence that had been recently discovered so petitioner could bring additional claims. Petitioner stated that the trial judge’s husband was a detective in the police department that arrested petitioner and this could lead to a new claim. Counsel was not appointed, however the process of staying the case to exhaust additional claims was described to petitioner and he was provided 21 days to file a motion to stay. Petitioner was informed that failure to respond would result in this case continuing on the current petition.

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Petitioner did not respond to the court's order, so on August 23, 2012, the petition was served on respondent who was ordered to file a response. On September 13, 2012, petitioner filed a one page motion. Petitioner does not formally ask for a stay and simply states he needs an attorney or more time as he is in administrative segregation and is not a lawyer. Regarding the actual claim petitioner wishes to investigate to exhaust, he only states that his trial judge's husband was a major crimes investigator with petitioner's arresting agency. Without any more information, which it does not appear petitioner has, this fails to state a viable habeas claim that would warrant the appointment of counsel and staying this case.

Accordingly, IT IS HEREBY ORDERED that petitioner's motion (Doc. 12) is denied.

DATED: September 25, 2012

/s/ Gregory G. Hollows
UNITED STATES MAGISTRATE JUDGE

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