

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
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY R. TURNER,
Petitioner,
v.
PAUL RICHARDSON, et al.,
Respondents.

No. 2:13-cv-00454 WBS AC P

ORDER

Petitioner is a state prisoner proceeding through appointed counsel with this habeas action filed pursuant to 28 U.S.C. § 2254. Petitioner challenges his 2010 conviction in the Yolo County Superior Court on one count of transportation of methamphetamine and one count of possession of methamphetamine, in violation of Sections 11379(a) and 11377 of the California Health and Safety Code. Petitioner was sentenced to a prison term of 18 years. The operative Second Amended Petition was filed December 22, 2014, and respondent filed an answer on March 20, 2015.

Presently pending is petitioner’s motion to stay this action pending completion of petitioner’s newly-filed state court actions, which seek petitioner’s resentencing under California’s Proposition 47, the Safe Neighborhoods and Schools Act, approved by the voters on November 4, 2014. In pertinent part, the Act amended California’s Health and Safety Code Section 11377 to render possession of limited quantities of narcotic drugs a misdemeanor rather

1 than a felony. Pursuant to this amendment, petitioner filed a motion in the trial court on March 5,
2 2015, to reduce his conviction, which was denied. The motion included federal constitutional
3 claims. On April 24, 2015, state-appointed appellate counsel filed a notice of appeal; the opening
4 brief is due July 6, 2015.

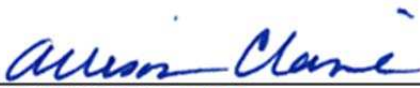
5 Federally-appointed habeas counsel now moves to stay this action until resolution of
6 petitioner's pending state court proceedings. Respondent declined to stipulate to a stay.
7 Petitioner has scheduled this matter for hearing before this court on August 19, 2015. See ECF
8 No. 59. The undersigned has determined that a hearing is unnecessary in this matter and issues
9 the following briefing schedule.

10 For good cause shown, IT IS HEREBY ORDERED that:

- 11 1. Respondent shall, on or before July 24, 2015, file and serve a response to petitioner's
12 motion to stay.
- 13 2. Petitioner shall, on or before August 7, 2015, file and serve a reply.
- 14 3. The hearing scheduled for August 19, 2015 is vacated; the court will decide the motion
15 on the papers unless the undersigned later determines that a hearing would be helpful.
- 16 4. Petitioner's request for an extension of time to file a traverse to the Second Amended
17 Petition will be decided when the court addresses the fully-briefed motion to stay.

18 SO ORDERED.

19 DATED: June 29, 2015

20 
21 ALLISON CLAIRE
22 UNITED STATES MAGISTRATE JUDGE
23
24
25
26
27
28