

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

SANDOR TORRES THIESSEN,
Petitioner,
v.
WILLIAM KNIPP, et al.,
Respondents.

No. 2:13-cv-0722 LKK KJN P

ORDER

Petitioner is a state prisoner proceeding without counsel. On July 22, 2013, petitioner filed a motion for stay and abeyance pending exhaustion of his state court remedies. On December 18, 2013, respondents filed an opposition to the request for stay, and motion to dismiss the petition as unexhausted. On January 14, 2014, petitioner was ordered to show cause why his failure to oppose respondents’ motion to dismiss should not be deemed a waiver of any opposition to the granting of the motion, and to file an opposition. However, on January 17, 2014, respondents withdrew their motion to dismiss, stating that “it now appears that the claims in the instant federal petition have been exhausted.” (ECF No. 26 at 1.) Respondents provided a copy of the docket sheet for petitioner’s Case No. S213578 in the California Supreme Court, reflecting that petitioner filed a petition for writ of habeas corpus on September 23, 2013, which was denied without comment on January 15, 2014. (ECF No. 26-1 at 2.) Respondents seek an additional sixty days, until March 24, 2014, in which to file a response to the petition.

1 On January 21, 2014, petitioner filed a response to the order to show cause, and an
2 opposition to the motion to dismiss, and requested that his motion for stay be granted. In light of
3 petitioner's response, the order to show cause is discharged.


4 Petitioner's recent filing was dated January 16, 2014, the day before the California
5 Supreme Court issued its ruling. The court has reviewed the petition filed in the California
6 Supreme Court, and it includes the ineffective assistance of counsel claims raised in petitioner's
7 federal petition. (Compare Respondents' Lodged Document 24 with ECF No. 1.) On January 15,
8 2014, the California Supreme Court denied the petition without comment. (ECF No. 26-1 at 2.)
9 Because it appears that petitioner's claims are now exhausted, the court denies the motion for stay
10 as moot. Respondents' request for extension of time is granted. Petitioner is advised that if the
11 response is a motion, his opposition is due twenty-one days after service of the motion. Local
12 Rule 230(1). If the response is an answer, petitioner's reply, if any, is due thirty days after service
13 of the answer.

14 Accordingly, IT IS HEREBY ORDERED that:

- 15 1. The January 14, 2014 order to show cause (ECF No. 25) is discharged;
- 16 2. Petitioner's motion for stay and abeyance (ECF No. 14) is denied as moot;
- 17 3. Respondent's January 17, 2014 request for extension of time (ECF No. 26) is granted;
- 18 and
- 19 4. Respondent is granted until March 24, 2014, in which to file a response to the petition.

20 Dated: January 30, 2014

21
22 thie0722.mts.moot

23
24
25
26
27
28

KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE