

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

SARAH WEEDEN,

Petitioner,

vs.

DEBORAH K. JOHNSON, Warden,
Central California Women's Facility,

Respondent.

No. 2:13-cv-02667-JKS

ORDER

[Re: Motion at Docket No. 26]

This Court denied habeas relief and a certificate of appealability to Sarah Weeden, a state prisoner represented by counsel. Docket Nos. 15, 16. Weeden timely filed a notice of appeal, Docket No. 17, and the Ninth Circuit Court of Appeals granted her a certificate of appealability with respect to: 1) whether counsel rendered ineffective assistance by failing to present expert testimony regarding her age and immaturity; and 2) whether she was entitled to a jury instruction on her age-related defense, Docket No. 3 (Ninth Cir. Case No. 14-17366). On appeal, the Ninth Circuit issued an order dated April 21, 2017, conditionally granting Weeden habeas relief on her ineffective assistance of counsel claim and remanding her case to this Court. Docket No. 23. On June 7, 2017, the mandate of the Ninth Circuit's judgment issued. Docket No. 24; Docket No. 38 (Ninth Cir. Case No. 14-17366). Later that day, this Court ordered Respondent to file notice by July 7, 2017, of whether the state intends to retry Weeden. Docket No. 25.

Counsel for petitioner now requests "that the order granting habeas relief be delayed an additional 30 days, to August 6, 2017," because he will be out of the country from July 2 through July 26, 2017. Docket No. 26. Because it is not yet clear whether an order granting habeas relief will issue, the Court finds that the extension request is premature.

IT IS THEREFORE ORDERED that the Scheduling Request at Docket No. 26 is **DENIED WITHOUT PREJUDICE AS PREMATURE**. In the event that defense counsel renews his extension request, his submission shall indicate whether he has obtained Weeden's consent for the motion.

The Clerk of Court is directed to serve a copy of this Order on the Ninth Circuit Court of Appeals.

Dated: June 9, 2017.

/s/James K. Singleton, Jr.
JAMES K. SINGLETON, JR.
Senior United States District Judge