Petitioner is a state prisoner proceeding without counsel seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. She commenced this action by filing an application for a writ of habeas corpus, along with a request to "toll . . . time." ECF Nos. 1, 2. She states in her request that that she has only presented this court with claims that are exhausted, but is "in the process of submitting new state claims to the superior court in the county of [her] conviction." ECF No. 2. Petitioner's request for the court to "toll" time must be denied, as her filing of a federal habeas petition does not toll the limitations period for purposes of 28 U.S.C. § 2244(d)(2). See Duncan

<sup>&</sup>lt;sup>1</sup> Respondent disagrees, arguing in his answer that some of the claims are not exhausted, but should nevertheless be denied on the merits. ECF No. 14 at 1-2,  $\P$  3.

<sup>&</sup>lt;sup>2</sup> Section 2244(d)(2) states:

The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

v. Walker, 533 U.S. 167, 181-82 (2001). To the extent petitioner wishes for this action to be stayed pending her exhaustion of additional claims in state court, she must expressly request such relief in a motion to stay, and also identify the claims she wishes to exhaust and demonstrate that a stay for purposes of exhausting those claims in state court would be appropriate in this action. See Kelly v. Small, 315 F.3d 1063 (9th Cir. 2002); Rhines v. Weber, 544 U.S. 269 (2005). Accordingly, IT IS HEREBY ORDERED that petitioner's request (ECF No. 2) is denied. This action stands submitted for decision, as respondent has filed an answer (ECF No. 14) and petitioner a traverse (ECF No. 15). Dated: August 12, 2014. EDMUND F. BRENNAN UNITED STATES MAGISTRATE JUDGE