

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

THOMAS CRUZ,
Petitioner,
v.
STATE OF CALIFORNIA,
Respondent.

No. 2:16-cv-0498 TLN AC P

ORDER

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On January 11, 2017, petitioner filed a motion to stay and abey his federal habeas petition pursuant to Rhines v. Weber, 544 U.S. 269 (1995), in order to exhaust state court remedies on claims One, Two, Three, and Five. ECF No. 16. Due to the overwhelming demands on the court’s docket, this motion cannot be adjudicated immediately. However, petitioner is not required to await resolution of the pending motion before returning to state court to properly exhaust his state court remedies. In the event that petitioner exhausts any claims in the California Supreme Court prior to this court’s resolution of the pending motion, petitioner is advised to file a notice of exhaustion in this court.

Accordingly, IT IS HEREBY ORDERED that:

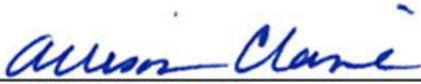
1. Respondent is hereby directed to file an opposition or a notice of non-opposition to petitioner’s stay and abeyance motion within twenty-one days from the date of this order;

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

2. Petitioner's reply, if any, is due seven days thereafter;

3. If petitioner exhausts any claims in the California Supreme Court prior to this court's resolution of the pending motion, petitioner shall file a notice of exhaustion in this court.

DATED: January 17, 2017



ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE