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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KENNETH G. MCCARTY,
Petitioner,
v.
SCOTT KERNAN,
Respondent.

No. 2:18-cv-0037 KJN P

ORDER

Petitioner is a state prisoner, proceeding pro se, with an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On April 11, 2018, petitioner was granted thirty days in which to file a motion for stay. On May 11, 2018, petitioner filed a response, stating he is willing to exhaust his state court appeal in the California Supreme Court while the instant petition is voluntarily dismissed. Petitioner states he will file again after he exhausts in state court.

However, the California Supreme Court website reflects that petitioner filed a petition for writ of habeas corpus on February 26, 2018, which was recently denied on May 9, 2018 in case No. S247273.¹ If the petition filed in the California Supreme Court is the same petition as the one

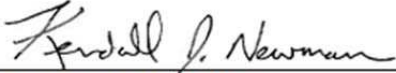
¹ The court may take judicial notice of facts that are “not subject to reasonable dispute because it . . . can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned,” Fed. R. Evid. 201(b), including undisputed information posted on official websites. Daniels-Hall v. National Education Association, 629 F.3d 992, 999 (9th Cir. 2010). It is appropriate to take judicial notice of the docket sheet of a California court. White v. Martel, 601 F.3d 882, 885 (9th Cir. 2010). The address of the official website of the California

1 filed herein, petitioner may have now exhausted his state court remedies. Petitioner was
2 previously cautioned about the one year statute of limitations.

3 Thus, in an abundance of caution, petitioner is granted fourteen days to inform the court
4 whether he has now exhausted his state court remedies and wishes to proceed with the instant
5 petition. Failure to respond to this order will result in an order granting petitioner's request to
6 voluntarily dismiss this action without prejudice.

7 Good cause appearing, IT IS HEREBY ORDERED that within fourteen days, petitioner
8 shall inform the court whether he has now exhausted his state court remedies and wishes to
9 proceed with the instant petition.

10 Dated: May 16, 2018

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12 _____
13 KENDALL J. NEWMAN
14 UNITED STATES MAGISTRATE JUDGE

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