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2
3 UNITED STATES DISTRICT COURT
4 NORTHERN DISTRICT OF CALIFORNIA
5

6 EDWARD LINDSEY,
7
8 Petitioner,

No. C 11-0638 SI (PR)

**ORDER DENYING PETITIONER'S
MOTION FOR A STAY**

9 v.

10 ANTHONY HEDGPETH,
11
12 Respondent.


13 This is a closed federal habeas corpus action. The petition was denied and judgment was
14 entered in favor of respondent on July 10, 2012. The Ninth Circuit Court of Appeals denied
15 petitioner's request for a Certificate of Appealability on July 24, 2013, and issued its mandate on
16 July 30, 2013.

17 Petitioner now moves to stay habeas proceedings pending exhaustion of new claims.
18 (Docket No. 37). This motion is DENIED for three reasons. First, it is nonsensical. The action
19 has been closed since 2012, and therefore there are no habeas proceedings to stay. Second,
20 insofar as it is a motion to reopen, it is barred because the claims are unexhausted. *See* 28 U.S.C.
21 § 2254(b), (c); *Rose v. Lundy*, 455 U.S. 509, 515–16 (1982). Third, insofar as the motion is a new
22 habeas petition, it is barred by the rule against filing a second or successive petition. In order to
23 file a second or successive petition, petitioner must obtain an order from the court of appeals
24 authorizing the district court to consider the petition. *See* 28 U.S.C. § 2244(b)(3)(A).

25 The Clerk shall terminate Docket No. 37.

26 **IT IS SO ORDERED.**

27 DATED: October 15, 2013

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SUSAN ILLSTON
United States District Judge