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

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KEITH STAMPS,

No. C 12-05753 WHA

Petitioner,

v.

**ORDER TO SHOW CAUSE RE
MOTION TO STAY**

RANDY GROUNDS,

Respondent.

State prisoner Keith Stamps, through counsel, filed petition for a writ of habeas corpus on November 8, 2012. The petition includes five claims, including two that petitioner admits have not been exhausted (Dkt. No. 5 at 3). Petitioner has now filed a motion seeking a “stay-and-abate” order pursuant to *Rhines v. Weber*, 544 U.S. 269 (2005). *Rhines* held that a district court has the authority to issue stays of mixed petitions under AEDPA where good cause exists for petitioner’s failure to exhaust the claims in state court and the claims are potentially meritorious. *Id.* at 277.

This order notes that no order to show cause regarding the habeas petition has issued, and respondent has not yet been required to respond to the merits of the petition. Respondent is hereby ordered to show cause why the motion to “stay-and-abate” should not be granted. By responding to the motion to stay, respondent does not thereby waive all objections or arguments regarding the merits of the underlying petition. Respondent’s response is due by **JANUARY 29 AT NOON**. Counsel for petitioner must serve this order and the motion on counsel for respondent forthwith.

IT IS SO ORDERED.

Dated: January 8, 2013.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE