

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA

3  
4 GERALD H. STOLP,  
5 Petitioner,

6 v.

7 PEOPLE OF THE STATE OF  
8 CALIFORNIA,  
9 Respondent.

Case No. [16-cv-00498-JD](#)

**ORDER OF DISMISSAL;  
DENYING CERTIFICATE OF  
APPEALABILITY**

Re: Dkt. Nos. 1, 2, 7

10 This pro se habeas action was initiated when petitioner filed a motion for a stay. Petitioner  
11 was advised that if he did not submit a formal petition by May 23, 2016, the case would be  
12 dismissed. No petition has been received. Without an underlying petition or case and  
13 controversy, the Court cannot rule on the motion to stay.

14 It appears that petitioner was convicted in Calaveras County, which is in the Eastern  
15 District of California. Petitioner filed a separate petition in this Court, No. 16-1265 JD, that was  
16 transferred to the Eastern District. Assuming both petitions concern the same underlying  
17 conviction this case is **DISMISSED** and **CLOSED** as duplicative and petitioner should proceed  
18 on the case in the Eastern District. If this petition concerns a different conviction it is still  
19 dismissed for failure to file a petition. All pending motions (Docket Nos. 1, 2, 7) are therefore  
20 **DENIED**. Because reasonable jurists would not find the result here debatable, a certificate of  
21 appealability (“COA”) is **DENIED**. *See Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000)  
(standard for COA).

22 **IT IS SO ORDERED.**

23 Dated: August 30, 2016

24  
25  
26   
27 JAMES DONATO  
28 United States District Judge

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA

3  
4 GERALD H. STOLP,  
5 Plaintiff,

6 v.

7 PEOPLE OF THE STATE OF  
8 CALIFORNIA,  
9 Defendant.

Case No. [16-cv-00498-JD](#)

**CERTIFICATE OF SERVICE**

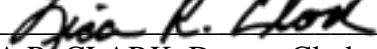
10 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S.  
11 District Court, Northern District of California.

12 That on August 30, 2016, I SERVED a true and correct copy(ies) of the attached, by  
13 placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by  
14 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery  
15 receptacle located in the Clerk's office.

16  
17 Gerald H. Stolp ID: ID: AK4738  
18 California Correctional Institution  
19 P.O. Box 1902  
20 Tehachapi, CA 93581

21 Dated: August 30, 2016

22  
23 Susan Y. Soong  
24 Clerk, United States District Court

25  
26 By:   
27 LISA R. CLARK, Deputy Clerk to the  
28 Honorable JAMES DONATO