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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HAROLD CARTER,
Petitioner,
v.
DEBBIE ASUNCION,
Respondent.

Case No. [16-cv-07167-JD](#)

ORDER GRANTING EXTENSION

Re: Dkt. No. 18

GOOD CAUSE APPEARING, it is hereby ordered that respondent's request for an extension of time (Docket No. 18) is **GRANTED**. Respondent shall file the briefing by **February 17, 2018**. Petitioner is again reminded that he must file the supplemental briefing as discussed in the October 26, 2017, Order. Plaintiff must address if the case is timely and if this is a mixed petition and found to be timely, if he seeks a stay or to proceed with the exhausted claims.¹

IT IS SO ORDERED.

Dated: January 18, 2018



JAMES DONATO
United States District Judge

¹ The general rule is that a federal district court must dismiss a federal habeas petition containing any claim for which state remedies have not been exhausted. *See Rose v. Lundy*, 455 U.S. 509, 522 (1982). When faced with a post-AEDPA mixed petition, the Court must sua sponte inform the habeas petitioner of the mixed petition deficiency and provide him an opportunity to amend the mixed petition by striking unexhausted claims as an alternative to the Court dismissing the petition. *Jefferson v. Budge*, 419 F.3d 1013, 1016 (9th Cir. 2005) (citing *Rhines v. Weber*, 544 U.S. 269, 277 (2005)) (court's erroneous dismissal of mixed petition entitled petitioner to equitable tolling of one-year AEDPA statute of limitations from the date the first habeas petition was dismissed until the date the second habeas petition was filed). Petitioner may also seek to stay the petition while he exhausts the remaining claims.

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 HAROLD CARTER,
4 Plaintiff,

5 v.

6 DEBBIE ASUNCION,
7 Defendant.

Case No. [16-cv-07167-JD](#)

CERTIFICATE OF SERVICE

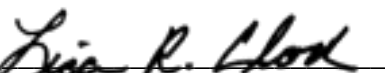
8
9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S.
10 District Court, Northern District of California.

11
12 That on January 18, 2018, 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 Harold Carter
18 G13886
19 P.O. Box 5101
20 Delano, CA 93216

21 Dated: January 18, 2018

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