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

PRINCE F. TSETSE,

Petitioner,

v.

ROBERT NEUSCHMID,

Respondent.

No. C 18-1876 WHA (PR)

**ORDER DENYING STAY; SETTING
DEADLINE TO FILE RENEWED
MOTION OR NOTICE TO
PROCEED WITH AMENDED
PETITION**


Petitioner, a California prisoner proceeding pro se, filed this habeas petition under 28 U.S.C. § 2254 challenging his conviction in state court. Petitioner has timely filed an amended petition claiming that he received ineffective assistance of counsel at trial, which claim was presented to and denied by the California Supreme Court. Petitioner has also

Petitioner has also filed a motion to stay this case while he exhausts additional claims of prosecutorial misconduct, actual innocence, “suppression of motions,” and “trial court errors/structural errors.” A district court may stay a petition to allow the petitioner to exhaust claims in state court, provided the petitioner shows (1) “good cause” for his failure to exhaust his claims in state court; (2) that his unexhausted claims are not “plainly meritless”; and (3) that he has not engaged in “intentionally dilatory litigation tactics.” *Rhines v. Webber* 544 U.S. 269, 278-79 (2005). Petitioner has not explained why he did not exhaust these claims in state court, let alone provided a good reason for such failure. He has also not shown why his unexhausted claims are plainly meritless, as there is no explanation what he means by “suppression of motions,” or which trial or structural errors he is asserting. Prosecutorial misconduct can

1 warrant federal habeas relief, but there is no indication as to what form of misconduct took
2 place. Accordingly, the motion to stay the petition is **DENIED**. Within **28 days** of the date this
3 order is filed, Petitioner shall either file a renewed motion to stay in which he makes the
4 necessary showing for a stay described above, or file a notice that he no longer wants a stay and
5 wishes to proceed with the amended petition.

6 IT IS SO ORDERED.

7 Dated: September 19, 2018.

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9 _____
10 WILLIAM ALSUP
11 UNITED STATES DISTRICT JUDGE