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United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SHANE MICHAEL OENNING,
Petitioner,
v.
KAMALA HARRIS (California Attorney
General), GREG MUNKS (San Mateo County
Sheriff),
Respondents.

Case No.: 14-CV-0263 YGR
ORDER GRANTING MOTION OF
RESPONDENTS TO DISMISS PETITION FOR
WRIT OF HABEAS CORPUS, DISMISSING
PETITION WITHOUT PREJUDICE, AND
DENYING REQUEST FOR STAY

Now before the Court is the motion of Respondent Kamala Harris, the Attorney General of California, to dismiss Shane Michael Oenning's petition for a writ of habeas corpus. (Dkt. No. 6.)¹ Respondent's motion is **GRANTED**. Because Petitioner did not seek habeas relief before the California Supreme Court, he has not exhausted his state court remedies. *Larche v. Simons*, 53 F.3d 1068, 1071-72 (9th Cir. 1995). Accordingly, the petition at bar is **DISMISSED WITHOUT PREJUDICE**.

Petitioner requests that this Court stay the instant case while he seeks habeas relief. (Dkt. No. 10 at 8.) The Court **DENIES** the request. *Jiminez v. Rice*, 276 F.3d 478, 481 (9th Cir. 2001)

¹ Pursuant to Federal Rule of Civil Procedure 78(b) and Civil Local Rule 7-1(b), the Court finds this motion appropriate for decision without oral argument. Accordingly, the Court **VACATES** the hearing set for April 15, 2014.

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(where petition "contained no exhausted claims" and respondent moved for dismissal, district court was "obliged to dismiss immediately" (internal quotation marks omitted)).

A certificate of appealability will not issue. Reasonable jurists would not "find it debatable whether the district court was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Petitioner may seek a certificate of appealability from the Court of Appeals.

The Clerk shall enter judgment in favor of Respondents and close the file.

IT IS SO ORDERED.

Date: April 10 , 2014


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE