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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

| | | |
|-----------------------------------------------|---|------------------------------|
| Eddie J. ADAIR, |) | Civil No. 10cv166 AJB |
| |) | |
| Petitioner, |) | |
| v. |) | Order Denying Motion To Stay |
| |) | |
| Matthew Cate, Secretary of the California |) | [Doc. No. 26] |
| Department of Corrections and Rehabilitation, |) | |
| |) | |
| Respondent. |) | |

Petitioner, Eddie J. Adair, a state prisoner proceeding pro se, filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 with this Court on January 20, 2010, presenting four claims. In an Order [Doc. No. 3] dated January 27, 2010, the Court, having preliminarily determined that the Petition contained unexhausted claims, notified the Petitioner that he had not alleged exhaustion as to claims three and four¹ and presented the Petitioner with four options regarding his mixed petition. The Petition was dismissed without prejudice and with leave to amend on January 27, 2010, for failure to name a proper respondent.

On February 10, 2010, the Petitioner filed a Motion to Change Respondent [Doc. No. 7] and a Motion for Stay and Abeyance. [Doc. No. 5.] On February 24, 2010, the Court issued an Order Sua Sponte Substituting Matthew Cate, Secretary of the California Department of Corrections and Rehabili-

¹ (See Pet., pgs. 15-20.)


1 tation, in place of Debra Dexter to avoid changing the Respondent again if Petitioner is transferred to
2 another prison or paroled. [Doc. No. 9.] Petitioner's Motion for Stay and Abeyance [Doc. No. 5] was
3 denied in a Report and Recommendation [Doc. No. 15] issued on June 16, 2010 and adopted on July 13,
4 2010 [Doc. No. 16].

5 The Petitioner filed a First Amended Petition (hereinafter "FAP") [Doc. No. 20] on August 11,
6 2010. The parties consented to Magistrate Judge Jurisdiction on October 14, 2010 [Doc. No. 23].
7 Respondents filed an Answer to the FAP [Doc. No. 24] on October 25, 2010. The Petitioner's Traverse
8 was due on November 24, 2010, however, instead of filing a Traverse, the Petitioner instead filed
9 another Motion for Stay and Abeyance on November 21, 2010, which is again a one sentence request
10 that fails to demonstrate good cause. For the same reasons set forth in this Court's Orders of June 16,
11 2010 [Doc. No. 15]² and July 13, 2010 [Doc. No. 16], Petitioner's Motion for Stay and Abeyance [Doc.
12 No. 26] is hereby DENIED.

13 Petitioner is hereby ORDERED to file his Traverse *on or before March 1, 2011*. The Petitioner
14 is warned that ***no further extensions of time will be granted absent good cause*** and that failure to
15 timely file his Traverse or file a request for an extension of time demonstrating good cause, will result in
16 this Court issuing a ruling based on the First Amended Petition, Lodgments and Answer.

17 IT IS SO ORDERED.

18
19 DATED: January 21, 2011

20 
21 Hon. Anthony J. Battaglia
22 U.S. Magistrate Judge
23 United States District Court
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