

United States District Court
Southern District of New York

Horace Hampton,

Petitioner,

12 Civ. 02145 (JGK)

- against -

MEMORANDUM OPINION AND
ORDER

William Lee,

Respondent.

JOHN G. KOELTL, District Judge:

The Court has received the petitioner's response to this Court's August 27, 2012 Order. The petitioner properly identifies that the pendency of a federal habeas corpus petition does not toll the one-year AEDPA statute of limitations, but that the pendency of properly filed state court postconviction proceedings does toll the statute of limitations. See Duncan v. Walker, 533 U.S. 167, 180-82 (2001).

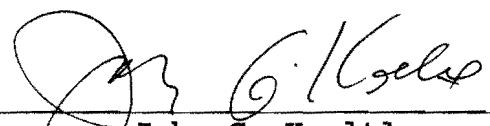
However, the petitioner has clarified that he seeks a stay of his petition for a writ of habeas corpus during the pendency of his state court postconviction proceedings. AEDPA provides district courts discretion upon a showing of good cause to stay habeas corpus petitions that have raised both exhausted and unexhausted claims. Rhines v. Weber, 544 U.S. 269, 275-76 (2005); see 28 U.S.C. § 2254(b)(1)(A). The petitioner has

alleged facts that he argues demonstrate good cause to stay his petition.

The time for the respondents to respond is October 31, 2012. The time for petitioner to reply is November 14, 2012.

SO ORDERED.

Dated: New York, New York
October 10, 2012



John G. Koeltl
United States District Judge