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8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 CHARLES V FARNSWORTH,

11 Petitioner,

12 v.

13 DONALD HOLBROOK,

14 Respondent.

CASE NO. 3:17-CV-05132-BHS-DWC

ORDER LIFTING STAY

15 The District Court has referred this action to United States Magistrate Judge David W.
16 Christel. Petitioner Charles V. Farnsworth filed a federal habeas Petition, pursuant to 28 U.S.C. §
17 2254, seeking relief from a state court conviction. *See* Dkt. 1. Currently before the Court is
18 Respondent's Motion to Lift Stay. Dkt 25.

19 On May 5, 2017, the Court stayed this case because the Petition included a claim that was
20 pending in the Washington state court. Dkt. 15. Respondent has now filed the Motion stating the
21 state court has resolved the claim. Dkt. 25. Petitioner filed a Response stating he wishes the stay
22 to remain because he has now filed a state personal restraint petition ("PRP"). Dkt. 26.
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1 “District courts do ordinarily have authority to issue stays, . . . where such a stay would
2 be a proper exercise of discretion.” *Rhines v. Weber*, 544 U.S. 269, 276 (2005) (internal citation
3 omitted). A stay and abeyance in federal habeas cases, however, “should be available only in
4 limited circumstances.” *Id.* at 277. A stay may be granted if: (1) the petitioner has “good cause”
5 for the failure to exhaust his grounds in state court; (2) the unexhausted claims are potentially
6 meritorious; and (3) there is no indication the petitioner intentionally engaged in dilatory
7 litigation tactics. *Id.* at 278; *see Riner v. Crawford*, 415 F.Supp.2d 1207, 1210 (D. Nev. 2006).

8 Petitioner requests the Court stay his Petition so that he may properly exhaust all his
9 claims for relief. Dkt. 26. Petitioner, however, does not state what claims are unexhausted or
10 allege that he raised the allegedly unexhausted claims in the pending PRP. *See id.* Petitioner has
11 also not shown good cause for the failure to exhaust the allegedly unexhausted claims. *Id.*
12 Further, Petitioner has failed to show the alleged unexhausted claims are meritorious. *Id.* As
13 Petitioner has not shown he meets the first two requirements necessary for a stay, the Court
14 declines to consider the third requirement and finds Petitioner has not shown it is appropriate to
15 continuing staying this case.

16 Therefore, Respondent’s Motion (Dkt. 25) is granted. Respondent shall file an answer to
17 the Petition as directed in the Order Directing Service (Dkt. 11) by April 6, 2018. The Clerk is
18 directed to lift the stay in this case.

19 Dated this 5th day of March, 2018.

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22 David W. Christel
23 United States Magistrate Judge
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