UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

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| GREGORY HARMS,<br>Petitioner,<br>v.<br>EDWARD SILVA,<br>Respondent. | No. 2:25-cv-1048 CSK P<br><br>ORDER |

Petitioner, a state prisoner proceeding through counsel, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner paid the filing fee.

Petitioner states that he filed, with the petition, a motion to stay pursuant to Kelly v. Small, 315 F.3d 1063 (9th Cir. 2003) to exhaust unexhausted claims.[1] (ECF No. 1-2 at 12.) However, the record does not contain a motion to stay pursuant to Kelly. This Court also observes that a stay pursuant to Kelly includes amending the petition to delete any unexhausted claims. Kelly, 315 F.3d at 1070.

Accordingly, IT IS HEREBY ORDERED that within twenty-one days of the date of this order, petitioner shall file the motion to stay referred to in the petition.

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[1] Petitioner does not state that he will seek a motion to stay pursuant to Rhines v. Weber, 544 U.S. 269 (2005).



AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Dated: April 14, 2025

CHI SOO KIM
UNITED STATES MAGISTRATE JUDGE

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