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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

PAUL JOHNSON,)	Case No. CV 11-1263 DOC (MRW)
Petitioner,)	
vs.)	ORDER DISMISSING ACTION
NORTH KERN STATE PRISON,)	
Respondent.)	

The Court dismisses Petitioner’s defective habeas action for failure to exhaust state court remedies.

Petitioner filed his federal habeas action in August 2011. According to the Petition and the First Amended Petition, Petitioner pled guilty in state court to drug possession and driving under the influence charges. He received a three-year prison term for his convictions.

Petitioner acknowledged in his Petition that he did not appeal his conviction or sentence in state court. He also did not seek habeas review in any state court. (Docket # 1 at 5.) Rather, after his July 2011 sentencing, he immediately filed his habeas petition in federal court.

1 In this case, the Court informed Petitioner that his federal habeas petition
2 consists of entirely unexhausted claims. Petitioner has not met his burden of
3 showing that he exhausted his state court rights before he commenced this federal
4 habeas action as required by statute. Although Petitioner may currently have an
5 appeal pending in state court, that is insufficient to satisfy the exhaustion
6 requirement under federal law. Petitioner's wholly unexhausted petition is
7 therefore subject to dismissal.

8 The Court therefore orders that the case be DISMISSED without prejudice
9 for the reasons stated above.

10 IT IS SO ORDERED.

11
12 DATED: September 27, 2011

David O. Carter

14 DAVID O. CARTER
15 UNITED STATES DISTRICT JUDGE

16 Presented by:

17 

19 MICHAEL R. WILNER
20 UNITED STATES MAGISTRATE JUDGE