

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

ANGEL HERNANDEZ

Petitioner,

v.

DERRAL ADAMS, Warden

Respondent.

1:08-cv-00254 LJO WMW (HC)

ORDER STRIKING PETITIONER'S  
MOTION TO RESPONSE AND TRAVERSE

[Doc. #16]

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On January 20, 2009, Petitioner filed a Motion to "Response and Traverse a Petition." Respondent filed a Motion to Dismiss on February 9, 2009. The appropriate time for Petitioner to file a response or a traverse is after the Respondent files an answer to the petition or a motion to dismiss. As set forth in this Court's Order of December 9, 2008, Petitioner now has 30 days from the date the Motion to Dismiss was filed to file either an Opposition or a Statement of Non-Opposition. (*See* Doc. #12). The Court notes that, should Petitioner file an Opposition, Petitioner need not include the same documents that he attached to his petition. Because Petitioner's attempt at a traverse is untimely, Petitioner's motion is hereby stricken.

IT IS SO ORDERED.

1 **Dated: February 11, 2009**

**/s/ William M. Wunderlich**  
UNITED STATES MAGISTRATE JUDGE

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