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7 **UNITED STATES DISTRICT COURT**  
8 **EASTERN DISTRICT OF CALIFORNIA**  
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10 ARTURO HUERTA,

11 Petitioner,

12 v.

13 RON DAVIS,

14 Respondent.

Case No. 1:15-cv-01827-SAB-HC

ORDER DIRECTING RESPONDENT TO  
FILE BRIEF AND LODGE DOCUMENTS  
REGARDING EXHAUSTION OF CLAIMS

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16 Petitioner is a state prisoner proceeding pro se in a habeas corpus action pursuant to 28  
17 U.S.C. § 2254.

18 In the answer, Respondent asserts that two claims in the petition are unexhausted but  
19 should be denied on the merits. (ECF No. 10 at 20, 25).<sup>1</sup> In the traverse, Petitioner states that he  
20 filed a state habeas petition in the superior court on February 16, 2016 in order to exhaust the  
21 two unexhausted claims. Additionally, Petitioner requests that the Court hold the petition in  
22 abeyance pending resolution of the unexhausted claims in state court. (ECF No. 12 at 5). On  
23 April 21, 2017, the Court ordered Petitioner to file a brief addressing exhaustion and whether he  
24 is entitled to “stay and abeyance” under Rhines v. Weber, 544 U.S. 269 (2005). (ECF No. 15).  
25 To date, Petitioner has not filed the brief, and the time for doing so has passed. In light of  
26 Petitioner’s failure to respond, the Court will order Respondent to provide information regarding  
27 exhaustion of claims 2 and 4.

28 <sup>1</sup> Page numbers refer to the ECF page numbers stamped at the top of the page.

1 Accordingly, the Court HEREBY ORDERS that:

- 2 1. Within fourteen (14) days of the date of service of this order, Respondent shall file a  
3 brief addressing exhaustion of claims 2 and 4; and  
4 2. Within fourteen (14) days of the date of service of this order, Respondent shall  
5 supplement the record by lodging with the Court any state habeas petitions, state  
6 court orders, or other documents that are pertinent to the issue of exhaustion.

7  
8 IT IS SO ORDERED.

9 Dated: July 10, 2017

  
UNITED STATES MAGISTRATE JUDGE