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6 UNITED STATES DISTRICT COURT
7 FOR THE EASTERN DISTRICT OF CALIFORNIA
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9 LARRY BAILEY-BANKS,

10 Petitioner,

11 v.

12 W.L. MONTGOMERY,

13 Respondent.
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Case No. 1:15-cv-01839-AWI-JDP

SCHEDULING ORDER

15 Petitioner Larry Bailey-Banks proceeds without counsel seeking a writ of habeas corpus
16 under 28 U.S.C. § 2254. The court allowed the petition to proceed beyond a preliminary review
17 (Doc. No. 10), and respondent filed an answer (Doc. No. 21). Before filing a traverse,
18 petitioner moved to stay this proceeding, stating that he was pursuing his unexhausted claims in
19 state court. (Doc. Nos. 27, 28.) The court denied petitioner's motion to stay without prejudice,
20 but allowed petitioner to amend his motion to stay, explaining how to obtain a stay under
21 *Rhines v. Weber*, 544 U.S. 269 (2005) and *Kelly v. Small*, 315 F.3d 1063 (9th Cir. 2003),
22 *overruled on other grounds by Robbins v. Carey*, 481 F.3d 1143 (9th Cir. 2007). (Doc. Nos. 30,
23 31.) More than four months have passed since the court issued the order allowing petitioner to
24 amend the motion to stay, but petitioner has not filed an amended motion.

25 Petitioner must file his amended motion to stay or his traverse by the deadline below.
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1 **Order**

- 2 1. By Thursday, August 30, 2018, petitioner must file either an amended motion to stay
3 or a traverse.
- 4 2. If petitioner files an amended motion to stay, respondent may file a response by
5 Thursday, September 20, 2018. Petitioner may file a reply in support of his motion to
6 stay by Tuesday, October 30, 2018.
- 7 3. If petitioner files neither an amended motion to stay or a traverse, the court will
8 decide the petition on the merits without further submission from the parties.

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10 IT IS SO ORDERED.

11 Dated: July 22, 2018

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14 UNITED STATES MAGISTRATE JUDGE
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