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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

<p>OSCAR JIMENEZ,</p> <p style="text-align: right;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>JOHN SUTTON,</p> <p style="text-align: right;">Respondent.</p>	
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Case No. 1:17-cv-00333 MJS (HC)
**SECOND ORDER TO SHOW CAUSE WHY
MOTION TO STAY SHOULD BE GRANTED**
(ECF No. 2)

Petitioner is a state prisoner proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner challenges an August 6, 2013 conviction from the Kern County Superior Court for two counts of second degree murder, two counts of gross vehicular manslaughter while intoxicated, and driving with a suspended license. (Pet., ECF No. 1.) In his petition, Petitioner presents five claims for relief including claims for insufficient evidence, instructional error, violation of the Fourth Amendment, improper admission of evidence, and sentencing error. (See Pet.)

Petitioner filed the instant petition on March 8, 2017. (Pet.) On the same date, Petitioner filed a motion to stay the petition. (Mot. to Stay, ECF No. 2.) In the motion, Petitioner states that he wants to raise additional federal grounds that had not been raised or exhausted in state court. (Id.) However, Petitioner did not provide further explanation as to which claims were unexhausted or as to his efforts seeking exhaustion

1 of those claims in state court. (Id.)

2 On April 14, 2017, the Court ordered Petitioner to show cause why his motion to
3 stay should be granted. (ECF No. 5.) Specifically, the Court ordered Petitioner to state
4 which of his claims were unexhausted and what efforts he has made to exhaust those
5 claims. (Id.) Petitioner was given thirty days to respond to the Order. Petitioner filed a
6 timely response to the Order to Show Cause on May 15, 2017. (ECF No. 6.) While
7 Petitioner outlined his efforts to exhaust claims in state court, as well as provided
8 detailed background information on the reasons why these claims were not exhausted,
9 Petitioner's response to the Order to Show Cause was incomplete.

10 In particular, Petitioner has not presented sufficient information regarding whether
11 he has presented a mixed petition. It is still not clear whether the claims presented in the
12 Petition are fully exhausted or whether Petitioner is still exhausting some or all of those
13 claims. To fully respond to the Court's Order to Show Cause, Petitioner shall provide the
14 Court with a comprehensive list of the specific claims that he has already exhausted, as
15 well as those that he is still attempting to exhaust in state court.

16 Accordingly, Petitioner is hereby ORDERED a second time to show cause why
17 the motion to stay (ECF No. 2) should be granted. A response to this Order shall include
18 a list of the claims Petitioner has already exhausted, as well as a list of the claims that
19 Petitioner still needs to exhaust. A response to this Order, or a notice to withdraw the
20 motion to stay, is due within thirty (30) days of the issuance of this Order. Petitioner is
21 forewarned that failure to follow this Order may result in sanctions, including the
22 dismissal of the petition without prejudice. Local Rule 110.

23
24 IT IS SO ORDERED.

25 Dated: October 12, 2017

26 /s/ Michael J. Seng
27 UNITED STATES MAGISTRATE JUDGE
28