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

JOSEPH GORE,

Petitioner,

No. CIV S-08-0448 JAM KJM P

vs.

E.K. McDANIALS, et al.,

Respondents.

ORDER

_____/

On August 25, 2009, this court issued findings and recommendations, finding that petitioner had failed to exhaust his claim that the prosecutor failed to correct the perjured testimony of Teresa Oliver and so recommended that respondent’s motion to dismiss be granted as to that claim only. Petitioner has now requested a stay to allow him to exhaust the unexhausted claim.

The court has the authority to stay a habeas petition so that the petitioner can exhaust state court remedies if the petitioner shows his claims are potentially meritorious and good cause for failure to exhaust earlier. Rhines v. Weber, 544 U.S. 269, 277 (2005). Petitioner has failed to provide any explanation as to why he did not exhaust state court remedies with

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1 respect to all of his claims earlier. He has already pursued state habeas relief, but does not
2 suggest why he failed to include this claim in his earlier state litigation.

3 IT IS THEREFORE ORDERED that petitioner's motion for a stay (docket no.
4 24) is denied.

5 DATED: September 14, 2009.

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7 _____
8 U.S. MAGISTRATE JUDGE

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