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

ANTHONY MARTINEZ,

Petitioner,

No. 2:08-cv-1786-GEB-JFM (HC)

vs.

D. K. SISTO, et al.,

Respondents.

ORDER

_____/

Petitioner is a state prisoner proceeding through counsel with an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On October 10, 2008, respondents filed a motion to dismiss this action on the grounds that it is barred by the statute of limitations and that petitioner’s claims are unexhausted. On October 22, 2008, petitioner filed a request for an extension of time to file a response to the motion to dismiss. On November 3, 2008, petitioner filed a motion to dismiss this action without prejudice. On November 4, 2008, respondents filed a statement of non-opposition to the motion. By order filed November 18, 2008, the court appointed the Federal Defender to represent petitioner and directed the parties to file status reports. The parties have now filed status reports.

After review of the status reports, and good cause appearing, IT IS HEREBY ORDERED that:

1 1. Petitioner's request to withdraw his November 3, 2008 motion for voluntary
2 dismissal is granted and petitioner's November 3, 2008 motion for voluntary dismissal is
3 withdrawn;

4 2. On or before January 31, 2009, petitioner shall file and serve an opposition to
5 respondents' October 10, 2008 motion to dismiss;

6 3. Respondents' reply, if any, shall be filed and served not later than fifteen days
7 thereafter;

8 4. The court will issue a further scheduling order, as appropriate, following
9 resolution of respondents' motion to dismiss.

10 DATED: January 21, 2009.

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13 UNITED STATES MAGISTRATE JUDGE

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