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

STEVEN ANTHONY CLEMENS,

Petitioner,

No. 2:08-cv-2588 KJN P

vs.

SISTO,

Respondent.

ORDER

\_\_\_\_\_ /

Petitioner is a state prisoner proceeding without counsel in this habeas corpus action filed June 9, 2008, pursuant to 28 U.S.C. § 2254. This action was reassigned to the undersigned on February 9, 2010.<sup>1</sup> The petition is fully briefed on two claims challenging petitioner’s conviction—respondent filed an answer on March 5, 2009; petitioner filed his traverse on April 8, 2009. Respondent agrees that the two claims presented in the petition are fully exhausted.

On June 28, 2010, petitioner filed a motion for leave to amend his petition. (Dkt. No. 30.) The motion follows the June 15, 2010 order of the Ninth Circuit Court of Appeals denying petitioner’s “application for authorization to file a second or successive [petition] in the

<sup>1</sup> This action is referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B), Local General Order No. 262, and E.D. Cal. L.R. (“Local Rule”) 302.

1 district court without prejudice to seeking leave to amend the habeas corpus petition currently  
2 pending before the district court. . . .” Clemens v. Swarthout, Case No. 10-71346 (set forth at  
3 Dkt. No. 30, p. 2). Petitioner has also attached copies of six orders by the California Supreme  
4 Court denying petitioner’s various applications for a writ of habeas corpus or requests for review;  
5 most post-date the filing of the petition pending in this court. The court’s review of these orders,  
6 petitioner’s brief and his other supporting documents fails to identify the issues petitioner asserts  
7 he has now exhausted or, therefore, the claims that petitioner now seeks to add to the petition  
8 currently pending in this court. Moreover, the court finds petitioner’s recitation of these claims  
9 confounding. The court will therefore seek additional briefing before addressing petitioner’s  
10 motion for leave to amend his petition.

11 Accordingly, IT IS HEREBY ORDERED that:

12 1. Respondent shall, within twenty-one (21) days after service of this order,  
13 respond to petitioner’s motion filed June 28, 2010; and

14 2. Petitioner may, but need not, file a reply within fourteen (14) days after service  
15 of respondent’s response; should petitioner reply, such reply shall not exceed five (5) pages in  
16 length.

17 SO ORDERED.

18 DATED: October 19, 2010

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22 KENDALL J. NEWMAN  
23 UNITED STATES MAGISTRATE JUDGE

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