

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

ALBERTO TORRES,

Petitioner, No. CIV S-09-0278 GGH P

VS.

D.K. SISTO,

Respondent. **ORDER**

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner originally filed a motion to stay this action pending exhaustion of additional claims. On February 9, 2009, the court issued an order stating that in order to consider the motion to stay, petitioner had to file a petition containing his exhausted and unexhausted claims.

On March 12, 2009, petitioner filed a habeas corpus petition. The petition does not contain petitioner's claims. Rather, it refers to the motion to stay for the statement of the claims. While the motion to stay sets forth the claims petitioner intends to exhaust, it is unclear from the motion what claims are now exhausted. The court cannot stay an action if no claims are exhausted.

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1 Accordingly, IT IS HEREBY ORDERED that the March 12, 2009, petition is
2 dismissed with thirty days to file an amended petition; the amended petition must include all of
3 petitioner's claims and clearly identify which claims are exhausted and which are not; failure to
4 comply with this order will result in a recommendation of dismissal of this action.

5 DATED: April 1, 2009

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7 /s/ Gregory G. Hollows

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UNITED STATES MAGISTRATE JUDGE

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