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

10 ALBERTO TORRES,

11 Petitioner,

No. CIV S-09-0278 GGH P

12 vs.

13 D.K. SISTO,

14 Respondent.

ORDER

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

21 On March 12, 2009, petitioner filed a habeas corpus petition. The petition does
22 not contain petitioner's claims. Rather, it refers to the motion to stay for the statement of the
23 claims. While the motion to stay sets forth the claims petitioner intends to exhaust, it is unclear
24 from the motion what claims are now exhausted. The court cannot stay an action if no claims are
25 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

8 _____
9 UNITED STATES MAGISTRATE JUDGE
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