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

KEVIN LOUIS HOLLOWAY,

Petitioner,

No. CIV S-09-0922 DAD P

vs.

BEN CURRY,

Respondent.

ORDER

_____ /

Petitioner is a state prisoner proceeding pro se with a petition for a writ of habeas corpus pursuant to 42 U.S.C. § 2254. On November 19, 2009, the court determined that petitioner had filed a mixed petition, containing both exhausted and unexhausted claims. The court ordered petitioner to inform the court on how he wished to proceed in light of this fact. On January 15, 2010, petitioner filed his response and informed the court that he intends to file a motion for a stay and abeyance.

The court will set a deadline for the filing of petitioner’s motion. Petitioner is reminded that in any such motion he must: (1) show good cause for his failure to exhaust all claims prior to filing this action; (2) identify the unexhausted claims and demonstrate that each is potentially meritorious; (3) describe the status of state court proceedings on the unexhausted claims; and (4) demonstrate that he has acted with diligence in pursuing his new, unexhausted

1 claims. See Rhines v. Weber, 544 U.S. 269, 277 (2005). Petitioner is cautioned that should he
2 fail to file a timely motion, this action will proceed only with respect to his exhausted claims set
3 forth in the petition pending before the court.

4 Accordingly, IT IS HEREBY ORDERED that within thirty days from the service
5 of this order, petitioner shall file his motion for a stay and abeyance as set forth above.

6 DATED: January 25, 2010.

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DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

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