

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

KENNETH A. SMITH,

Petitioner,

No. CIV S-09-1347 GGH P

VS.

ATTORNEY GENERAL,

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. On May 28, 2009, petitioner consented to the jurisdiction of the undersigned.

On July 20, 2009, the court issued an order stating that it was unclear whether petitioner had exhausted state court remedies. The court ordered petitioner to inform the court within ten days whether his claims had been presented to the California Supreme Court. Ten days passed and petitioner did not respond to this order.

Accordingly, IT IS HEREBY ORDERED that this action is dismissed without prejudice. See Local Rule 11-110; Fed. R. Civ. P. 41(b).

DATED: August 31,2009

/s/ Gregory G. Hollows

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UNITED STATES MAGISTRATE JUDGE