2345

1

7

6

8

10

11

12

13

1415

16

17

18

1920

21

2223

24

2526

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL RAY CHAVEZ,

VS.

Petitioner,

No. CIV S-09-2048 GGH P

JOHN HAVILAND, et al.,

Respondents.

<u>ORDER</u>

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus. On August 10, 2009, the court issued an order finding that not all of the claims raised in the petition were exhausted. The court ordered petitioner to file further briefing addressing how he intended to proceed. On September 8, 2009, petitioner filed briefing stating that all claims are exhausted. Petitioner states that he inadvertently failed to include evidence of exhaustion in his petition.

Since petitioner may be entitled to relief if the claimed violation of constitutional rights is proved, respondents will be directed to file a response to petitioner's habeas petition.

In accordance with the above, IT IS HEREBY ORDERED that:

1. Respondents are directed to file a response to petitioner's habeas petition within sixty days from the date of this order. See Rule 4, Fed. R. Governing § 2254 Cases. An answer

shall be accompanied by all transcripts and other documents relevant to the issues presented in the petition. See Rule 5, Fed. R. Governing § 2254 Cases; 2. If the response to the habeas petition is an answer, petitioner's reply, if any, shall be filed and served within thirty days after service of the answer; 3. If the response to the habeas petition is a motion, petitioner's opposition or statement of non-opposition to the motion shall be filed and served within thirty days after service of the motion, and respondents' reply, if any, shall be filed and served within fifteen days thereafter; and 4. The Clerk of the Court shall serve a copy of this order, the consent/reassignment form contemplated by Appendix A(k) to the Local Rules of this court together with a copy of the petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 on Michael Patrick Farrell, Senior Assistant Attorney General. DATED: September 16, 2009 /s/ Gregory G. Hollows UNITED STATES MAGISTRATE JUDGE ch2048.100