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

EUGENE VIRGIL HALL,

Petitioner,

No. CIV S-09-2552 DAD P

vs.

M.D. McDONALD, Warden,

Respondent.

ORDER

_____ /

Petitioner is a state prisoner proceeding pro se with a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On November 25, 2009, respondent filed a motion to dismiss the petition pending before the court on the ground that it contains claims that have not been exhausted. Specifically, respondent argues that certain sub-issues raised in petitioner’s claims one and three of the petition are unexhausted and that claims six and seven of the petition are completely unexhausted. In response to respondent’s motion to dismiss, petitioner has filed a motion to amend his petition. Therein, petitioner seeks leave to withdraw the same sub-issues and claims that respondent has argued are unexhausted. Respondent has not opposed or otherwise filed a response to petitioner’s motion to amend.

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1 Good cause appearing, IT IS HEREBY ORDERED that within twenty days of the
2 date of this order, respondent shall file an opposition or a statement of non-opposition to
3 petitioner's motion to amend and shall show cause in writing why petitioner's motion to amend,
4 if granted, would not render respondent's motion to dismiss moot.

5 DATED: February 2, 2010.

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8 _____
9 DALE A. DROZD
10 UNITED STATES MAGISTRATE JUDGE

9 DAD:9
10 hall2552.mta