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

FERMIN CORONADO GALVEZ,

Petitioner,

No. CIV S-10-0485 GEB GGH P

vs.

JAMES D. HARTLEY, et al.,

Respondents.

ORDER

_____ /

Petitioner, a state prisoner proceeding pro se, is proceeding with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner filed the original petition on February 18, 2010, and on March 15, 2010, the court ordered respondent to file a response. Currently pending is petitioner’s April 13, 2010, motion to amend the petition. Respondent has also filed a motion seeking an extension of time to file a response to the petition.

Petitioner’s motion to amend contains several new claims that appear to be exhausted, however, petitioner has not filed an amended petition that contains the new claims and the claims from the original petition.

Pursuant to the Local Rules, “every pleading to which an amendment or supplement is permitted as a matter of right or has been allowed by Court order shall be retyped and filed so that it is complete in itself without reference to the prior or superseded pleading.”

1 L.R. 220. This is because, as a general rule, an amended complaint supersedes an earlier
2 complaint. See Loux v. Rhay, 375 F.2d 55, 57 (9th Cir.1967). Petitioner has not complied with
3 this rule, therefore petitioner's motion to amend is denied.

4 However, petitioner will be provided twenty-one days from service of this order to
5 file a motion to supplement or amend his petition, and attach to that motion an amended petition
6 that is complete in itself, without reference to the original petition. If petitioner does not file an
7 amended petition, the case will proceed on the original petition.

8 Respondent's motion for an extension will be vacated and respondent need not
9 respond to the petition at this time. Upon petitioner's filing of an amended petition or expiration
10 of the time to file an amendment, the court will instruct respondent to file a response.

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

12 1. Petitioner's motion to amend (no. 11) is denied without prejudice; within
13 twenty-one days from service of this order petitioner may file a new motion to amend and attach
14 to that motion an amended petition containing all of his claims.

15 2. Respondent's motion for an extension of time (no. 13) is vacated.

16 3. The Court's March 15, 2010, order is vacated in part, in that respondent need
17 not file a response within 60 days.

18 DATED: May 21, 2010

19 /s/ Gregory G. Hollows

20
21 UNITED STATES MAGISTRATE JUDGE

22 GGH: AB
23 galv485.amnd