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

ORVAL D. FLANNERY,

Petitioner,

No. CIV S-10-0950 GGH P

vs.

JAMES WALKER, Warden,

Respondent.

ORDER

\_\_\_\_\_ /

Petitioner, a state prisoner proceeding pro se, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.<sup>1</sup> Petitioner has paid the filing fee.

Since petitioner may be entitled to relief if the claimed violation of constitutional rights is proved, respondent will be directed to file a response as set forth below.

Petitioner raises three grounds in challenging his 2005 Amador County Superior Court conviction of petty theft with a prior (Cal. Penal Code § 666) and under the three-strikes law (Cal. Penal Code § 667.5) for which he was sentenced to an indeterminate term of 25 years to life. Petition, pp. 1-7. Of the three grounds raised, petitioner alleges that ground three is unexhausted, and he brings a motion for the petition to be stayed pending the state court

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<sup>1</sup> This case was transferred here from the Fresno Division on April 20, 2010.

1 exhaustion of the unexhausted ground. See Motion to Stay (docket # 2). The court intends to  
2 consider respondent's response to the motion before adjudicating the request for a stay of the  
3 petition.

4 Accordingly, IT IS ORDERED that:

5 1. The Clerk of the Court is directed to serve the petition and the motion to stay  
6 upon respondent; and

7 2. Respondent is directed to review the petition and the pending motion to stay  
8 and to file a response to the motion to stay, filed on April 14, 2010 (docket # 2), within twenty-  
9 one days.

10 DATED: June 1, 2010

11 /s/ Gregory G. Hollows

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13 GREGORY G. HOLLOWS  
14 UNITED STATES MAGISTRATE JUDGE

14 GGH:009  
15 fln0950.ord