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

DEANDRE CERRONE SCOTT,

Petitioner,

No. CIV S-10-2492 WBS GGH P

vs.

MIKE McDONALD,

Respondent.

ORDER

_____ /

Petitioner is a state prisoner proceeding pro se on a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. After respondent had filed an answer in this matter, petitioner, rather than submit a reply/traverse, filed a motion for a stay pending exhaustion of additional claims, a motion which was denied by Order, filed on June 23, 2011 (adopting findings and recommendations, finding that petitioner, far from showing “good cause” for having failed to raise the claims before filing his federal habeas petition provided no reason at all for the delay). Findings and Recommendations, filed on March 30, 2011, at docket # 14, pp. 2-3 (relying on Rhines v. Webber, 544 U.S. 269, 277-38, 125 S.Ct. 1528, 1535 (2005)). Moreover, the court therein noted that the additional claims were likely to be found to be procedurally barred for having been raised untimely and/or for having failed to raise the issues earlier on direct appeal. Id. at 3-4 [citations omitted]. After the motion to stay was denied, petitioner was granted

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1 time to file a reply/traverse, which he did on July 28, 2011, after which this matter was deemed
2 submitted.

3 In a motion for leave to amend, not filed until March 27, 2012 (along with a
4 proposed amended petition), petitioner now seeks to proceed on a first amended petition
5 incorporating all of his claims and provides some evidence that his additional claims have been
6 exhausted in the form of a postcard denial of his petition for writ of habeas corpus in the
7 California Supreme Court by a decision, dated as filed on December 21, 2011. See docket # 21,
8 p. 151. The court will require a response from respondent before ruling on the motion.

9 Accordingly, IT IS HEREBY ORDERED that respondent file a response to
10 petitioner's March 27, 2012 (see docket # 20 and # 21) motion for leave to amend the petition
11 within twenty-eight days, following which petitioner is granted fourteen days to file any reply,
12 after which the motion will be deemed submitted.

13 DATED: April 12, 2012

14 /s/ Gregory G. Hollows
15 UNITED STATES MAGISTRATE JUDGE

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