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

REGINALD THOMAS BUNN, JR.,

Petitioner,

No. CIV S-11-1373 DAD P

vs.

RAUL LOPEZ,

Respondent.

ORDER

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Petitioner, a state prisoner proceeding pro se, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, together with an application to proceed in forma pauperis. Petitioner has also filed a motion for a stay and abeyance.

Examination of the in forma pauperis application reveals that petitioner is unable to afford the costs of suit. Accordingly, the application to proceed in forma pauperis will be granted. See 28 U.S.C. § 1915(a).

**BACKGROUND**

Petitioner commenced this action by filing a petition for writ of habeas corpus, together with a motion for a stay and abeyance. In his motion, petitioner acknowledges that two of the three grounds for relief presented in his pending petition are unexhausted. Petitioner notes that he is awaiting a decision from the California Supreme Court on these unexhausted claims.

1 **DISCUSSION**

2 In his petition and motion for a stay and abeyance, petitioner informs the court  
3 that on March 15, 2011, he filed a petition for writ of habeas corpus in the California Supreme  
4 Court in an effort to exhaust his federal habeas claims. According the California Supreme  
5 Court’s website, it appears that petitioner’s pursuit of habeas corpus relief in state court is now  
6 complete. Specifically, on August 24, 2011, that court denied his habeas petition in Case No.  
7 S191495.

8 If this is the case and petitioner is no longer pursuing habeas corpus relief in state  
9 court, this court will direct petitioner to file an amended petition containing all of his exhausted  
10 claims in this action and updating the allegations thereof to include reference to his exhaustion  
11 petition and the California Supreme Court’s denial thereof. Upon receipt and review of  
12 petitioner’s amended petition, the court will deny petitioner’s motion for a stay and abeyance as  
13 moot, allow the case to proceed on petitioner’s amended petition, and order respondent to file  
14 and serve a response to petitioner’s amended petition.

15 If, on the other hand, petitioner has a petition for writ of habeas corpus still  
16 pending in state court, he is directed to file a declaration explaining the status of his petition and  
17 any pending state habeas corpus proceedings. Upon receipt and review of any such declaration  
18 submitted by petitioner, the court will determine the merits of his motion for a stay and abeyance  
19 and rule upon it.

20 **CONCLUSION**

21 Accordingly, IT IS HEREBY ORDERED that:

- 22 1. Petitioner’s application to proceed in forma pauperis (Doc. No. 2) is granted;  
23 2. Within thirty days of the date of service of this order, petitioner shall either:

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- (a) file an amended petition containing all of his exhausted claims;<sup>1</sup> or
- (b) file a declaration explaining the status of any pending habeas corpus proceedings in state court; and

3. The Clerk of the Court is directed to send petitioner the court's form for filing a petition for writ of habeas corpus.

DATED: September 8, 2011.

  
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DALE A. DROZD  
UNITED STATES MAGISTRATE JUDGE

DAD:9  
bunn1373.status

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<sup>1</sup> If petitioner elects option (a) and files an amended petition, he is advised that any amended petition must be filed on the form employed by this court and must state all claims and prayers for relief on the form. It must bear the case number assigned to this action and must bear the title "Amended Petition."