

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

MARCOS AVALOS,

Petitioner,

No. 2:12-cv-0052 LKK JFM (HC)

vs.

GREGG LEWIS, Warden,

Respondent.

ORDER

_____ /

Petitioner is a state prisoner proceeding pro se and in forma pauperis with an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On March 19, 2012, respondent filed a motion to dismiss. Respondent contends that the petition before the court is a mixed petition containing both exhausted and unexhausted claims. On June 4, 2012, petitioner filed a document styled as an opposition to the motion to dismiss. Therein, petitioner requests that this action be stayed and held in abeyance pending exhaustion of unexhausted claims or, in the alternative, that petitioner be granted leave to amend the petition to proceed with the exhausted claims.

/////
/////
/////

1 Good cause appearing, IT IS HEREBY ORDERED that within fourteen days from
2 the date of this order respondent shall file and serve a response to petitioner's request for stay and
3 abeyance. Petitioner's reply, if any, shall be filed and served not later than seven days thereafter.

4 DATED: June 27, 2012.

5
6 
7 UNITED STATES MAGISTRATE JUDGE

8 12
9 aval0052.fb

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26