UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

RICHARD VINCENT ROOD,

Petitioner,

v.

GARY SWARTHOUT,

Respondent.

No. 2:12-cv-01476 AC P

ORDER

Petitioner is a state prisoner proceeding pro se and in forma pauperis with a petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254. The parties have consented to the jurisdiction of the undersigned United States Magistrate Judge for all purposes, pursuant to 28 U.S.C. § 636(c), and Local Rule 305(a). See ECF Nos. 7, 13.

On June 13, 2013, this court granted petitioner's motion to stay this action while petitioner exhausted two additional claims for relief in the state courts. See ECF No. 29. Petitioner was directed to file, within thirty days after a decision by the California Supreme Court concluding state habeas review, a motion requesting that the stay be lifted. On February 2, 2015, petitioner filed a motion to lift the stay pursuant to the California Supreme Court's denial of review on January 14, 2015. ECF No. 40. Petitioner requests that he now be permitted to proceed on his additional claims, as well as his initial claim as set forth in his original petition. Petitioner's request will be granted and petitioner directed to file an amended petition that contains all of his

exhausted claims.[1]

Accordingly, IT IS HEREBY ORDERED that:

1. Petitioner's motion to lift the stay in this action, ECF No. 40, is granted;

2. The stay imposed in this action on June 13, 2013, is lifted;

3. Within thirty days after the filing date of this order, petitioner shall file and serve an amended petition for writ of habeas corpus under 28 U.S.C. § 2254, that contains all three of plaintiff's claims exhausted in the state courts;

4. The Clerk of Court is directed to:

a. Lift the stay in this action; and

b. Send petitioner, together with a copy of this order, a blank form for seeking a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254.

DATED: March 3, 2015

ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE

[1] Although the stay in this case was granted under the authority of Rhines v. Weber, 544 U.S. 269 (2005), petitioner's original petition was not "mixed" but contained only petitioner's then-exhausted claim.