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

ANTONIO R. WILLIAMS,

Petitioner,

No. 2:12-cv-1588 LKK CKD P

vs.

UNKNOWN,

ORDER

Respondent.

_____ /

Petitioner, a state prisoner proceeding pro se, has filed an amended petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. (Dkt. No. 18.) On February 1, 2013, the undersigned determined that the amended petition was “mixed” in that it contained both exhausted and unexhausted claims. (See Dkt. No. 18 at 4-6.) Petitioner was granted thirty days to either (1) file an amended petition omitting all unexhausted claims or (2) seek a stay pursuant to Rhines v. Weber, 544 U.S. 269 (2005). Petitioner was advised that to be entitled to a Rhines stay, he must show good cause for his earlier failure to exhaust and that the unexhausted claims are potentially meritorious. (Dkt. No. 19.)

Before the court is petitioner’s February 19, 2013 motion to stay. (Dkt. No. 20.) While petitioner cites legal advice given to him in 2010 concerning his presentation of claims to the state appellate courts, he fails to show good cause for not previously exhausting all the instant claims. Petitioner also fails to show that his unexhausted claims are potentially meritorious.

1 Thus the court will deny petitioner's motion to stay. Petitioner will be granted thirty days to file
2 a second amended petition containing only exhausted claims.

3 Accordingly, IT IS HEREBY ORDERED THAT:

- 4 1. Petitioner's February 19, 2013 motion to stay (Dkt. No. 20) is denied; and
5 2. Petitioner is granted thirty days from the date of this order to file an amended
6 petition containing only claims previously exhausted in the California Supreme Court. Failure to
7 comply with this order will result in a recommendation that this action be dismissed.

8 Dated: March 5, 2013

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10 _____
11 CAROLYN K. DELANEY
12 UNITED STATES MAGISTRATE JUDGE

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will1588.stay

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