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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GEORGE WALLACE,
Petitioner,
v.
RON E. BARNES,
Respondent.

No. 2:14-cv-0157 MCE EFB P

ORDER

Plaintiff is a state prisoner proceeding without counsel on a petition for writ of habeas corpus. 28 U.S.C. § 2254. He has filed two motions for leave to file an amended petition and two motions for discovery. ECF Nos. 44, 52, 53, 54.

On February 13, 2015, the court dismissed the petition for failure to exhaust eight of the ten claims presented. ECF Nos. 43, 50. The court granted petitioner leave to file an amended petition within 30 days containing only exhausted claims while he returned to state court to exhaust the other claims. *Id.* The court emphasized that, within 30 days of the court’s order, petitioner must file “a petition stating only the claims he has exhausted thus far” and, at the same time, ask the court to stay the case while he exhausted the other claims. ECF No. 50 at 2. Nevertheless, petitioner has not filed the amended petition. Instead, he has filed two motions for leave to file an amended petition. ECF Nos. 53, 54. In the second of those motions, petitioner indicates that he has completed exhaustion of all of his claims. ECF No. 54.


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The court construes the motions for leave to file an amended petition as motions for an extension of time to file the amended petition, and grants the motions so construed. Within 30 days of the date of this order, petitioner may file an amended petition containing only exhausted claims. Petitioner is admonished that failure to file the amended petition within that timeframe may result in dismissal of the case.

Petitioner has also filed (twice) a motion for discovery. ECF Nos. 44, 52. As no petition is currently pending before the court, the court denies the motions for discovery without prejudice. Petitioner may refile his discovery motion after he has filed the amended petition.

So ordered.

DATED: August 26, 2015.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE