

1 request for an extension of time to file an amended petition and denied as moot his redundant
2 motion to amend. ECF No. 69. That order also directed plaintiff to file his amended petition
3 within sixty days. *Id.* The current posture of the case is as follows:

- 4 • On February 10, 2017, it was recommended that respondent's motion to dismiss be
5 granted and that the petition be dismissed with leave to amend so that petitioner
6 could file a fully exhausted petition and seek a *Kelly* stay. ECF No. 35.
- 7 • On March 27, 2017, those recommendations were adopted by the district judge.
8 ECF No. 36.
- 9 • On March 31, 2017, petitioner filed an amended petition. ECF No. 38.
- 10 • On April 14, 2017, Petitioner filed a motion to stay. ECF No. 40.
- 11 • On July 12, 2017, it was recommended that the motion to stay be denied and the
12 amended petition be dismissed with leave to amend due to its inclusion of
13 unexhausted claims. ECF No. 50.
- 14 • On August 15, 2017, petitioner filed a second amended petition. ECF No. 51.
- 15 • On August 30, 2017, the aforementioned July recommendations were adopted by
16 the district judge. ECF No. 52.
- 17 • On November 21, 2017, respondent filed an answer to the second amended
18 petition. ECF No. 58.
- 19 • On January 2, 2019, petitioner filed a third amended petition, again including
20 claims previously deemed unexhausted. ECF No. 72; *see also* ECF No 35.

21 Because petitioner's third amended petition is not limited to his exhausted claims, as
22 directed by the court, it will be disregarded. Thus, based on the foregoing, the operative petition
23 in this case is the second amended petition. ECF No. 52. That petition has not, contrary to
24 petitioner's understanding, been mooted.

25 Accordingly, IT IS ORDERED that:

- 26 1. As a one-time courtesy, the Clerk of the Court shall mail petitioner copies of Docket
27 Nos. 67 and 68;
- 28 2. Petitioner's third amended petition (ECF No. 72) is disregarded; and

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3. The second amended petition (ECF No. 51) will remain operative and be deemed submitted.

DATED: February 4, 2019.



EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE