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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY CHARLES WRIGHT,  
Petitioner,  
v.  
JOE A. LIZARRAGA,  
Respondent.

No. 2:17-cv-0617 TLN AC P

ORDER

Petitioner, a state prisoner proceeding pro se and in forma pauperis, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Currently before the court is respondent’s motion to dismiss the petition as unexhausted. ECF No. 9. However, petitioner has now filed a notice advising the court that he has exhausted his state court remedies and a copy of the California Supreme Court’s order denying his state petition. ECF No. 17. However, the state court order is insufficient to demonstrate that petitioner’s state court remedies have been exhausted, because there is no indication that the claims in that petition are the same claims he is pursuing in this case. The court will therefore vacate respondent’s motion to dismiss and provide petitioner with an opportunity to provide a copy of his petition in California Supreme Court Case No. S245487. After petitioner has filed his petition or his time for doing so passes, respondent shall file a new motion to dismiss or answer the petition.

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Accordingly, IT IS HEREBY ORDERED that:

1. Respondent’s motion to dismiss (ECF No. 9) is vacated.
2. Within thirty days of service of this order, petitioner shall file a copy of his petition in California Supreme Court Case No. S245487.
3. Within thirty days of the filing of petitioner’s California Supreme Court petition, or within thirty days of petitioner’s deadline for filing if he fails to provide a copy of the petition, respondent shall file a motion to dismiss or an answer.

DATED: March 13, 2018

  
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ALLISON CLAIRE  
UNITED STATES MAGISTRATE JUDGE