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

ADAM CORNEJO,
Petitioner,
v.
JOE LIZARRAGA,
Respondent.

No. 2:18-CV-0571-KJM-DMC-P

ORDER

Petitioner, a state prisoner proceeding with retained counsel, brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pending before the court is respondent’s motion to dismiss (Doc. 13).

Respondent argues the instant petition must be dismissed as a mixed petition containing exhausted and unexhausted claims unless petitioner is willing to strike unexhausted claims two, three, and five. See Doc. 13. Petitioner has filed a statement indicating he is willing to strike claims two, three, and five and proceed on the remaining exhausted claims. See Doc. 15. Good cause appearing therefor, claims two, three, and five will be stricken from the petition at petitioner’s request and respondent’s motion will be denied as moot.

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Accordingly, IT IS HEREBY ORDERED that:

1. At petitioner's request, claims two, three, and five are stricken from the petition;
2. Respondent's motion to dismiss (Doc. 13) is denied as moot;
3. Respondent shall file an answer to the petition within 30 days of the date of this order; and
4. Petitioner may file a traverse within 30 days of service of respondent's answer.

Dated: November 8, 2018



DENNIS M. COTA
UNITED STATES MAGISTRATE JUDGE