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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

De'SHAWN DeKKERIO DEAN,
Petitioner,
v.
J. ROBERTSON,
Respondent.

No. 2:18-cv-01287 TLN GGH P

ORDER

Petitioner, a state prisoner proceeding pro se, has filed a petition for writ of habeas corpus pursuant to 28 U.S.C. §2254. The matter was referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and Local Rule 302(c).

On August 13, 2018, respondent filed an answer to the petition for a writ of habeas corpus. ECF No. 10. On October 2, 2018, petitioner filed a traverse. ECF No. 14. After reviewing the parties' briefing, on April 18, 2019 the undersigned issued an order providing petitioner an opportunity to file a motion for stay and abeyance for a failure to exhaust his second claim for ineffective assistance of counsel. ECF No. 16. Alternatively, if petitioner did not wish to seek a stay, petitioner had the option to delete his unexhausted claim and file an amended petition containing only exhausted claims. Id. On May 28, 2019, petitioner filed a motion to stay pursuant to Kelly v. Small, 315 F.3d 1063 (9th Cir. 2003), as well as an amended petition containing only his exhausted claim. ECF Nos. 19, 20. On June 10, 2019, the undersigned issued

1 findings and recommendations recommending that petitioner's motion to stay be granted and this
2 action be administratively stayed pursuant to Kelly. ECF No. 21. The presiding District Judge
3 adopted in full the June 10, 2019 findings and recommendations and granted a stay of these
4 proceedings on August 2, 2019. ECF No. 23. To date, petitioner has not updated the court on the
5 status of his exhaustion efforts.

6 IT IS HEREBY ORDERED that petitioner shall, within 30 days from the date of this
7 order, file a statement notifying the court whether he has a matter pending before the California
8 Supreme Court or whether the Supreme Court has considered a habeas petition and ruled on it.
9 Petitioner is warned that failure to comply with this order will result in a recommendation that
10 this action be dismissed without prejudice.

11 Dated: September 17, 2019

12 /s/ Gregory G. Hollows
13 UNITED STATES MAGISTRATE JUDGE
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