UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA ALFREDO GOMEZ, No. 2:18-cv-01738-GGH Petitioner. **ORDER** v. UNKNOWN, Respondent.

Petitioner filed a Motion for Stay and Abeyance having recognized that he had yet to exhaust his state remedies but apparently seeking to avoid a statute of limitations problems. This court cannot, however, grant stay and abeyance in the absence of a properly drafted petition for habeas corpus to support the action. In non-capital cases, a petition is what commences the court's jurisdiction to issue ruling; one cannot simply file a motion to extend time in which to file a petition. See Youngblood v. Evans, 2008 WL 916998 (E.D. Cal. 2008); Villacrez v. CA CDCR & BPH, 2016 WL 3519415 (E.D. Cal. 2016). Therefore, if petitioner is in need of stay and abeyance he must file a petition for the writ, and he may seek the relief he wants at the same time by filing his motion conjunctively with the filing of the petition.

The court will assist petitioner by ordering that he be sent this court's habeas petition

1	format which provides some structural guidance to the drafting of a petition along with the court's
2	in forma pauperis application form. Petitioner is advised that he must either seek in forma
3	pauperis status at the time of filing his petition or he must pay the fee required by this court.
4	In light of the foregoing IT IS HEREBY ORDERED that:
5	1. Petitioner's motion for stay and abeyance is DENIED without prejudice to its
6	renewal;
7	2. The Clerk of the Court shall send petitioner a copy of this court's habeas corpus
8	petition form and its in forma pauperis application form.
9	Dated: July13, 2018
10	<u>/s/ Gregory G. Hollows</u> UNITED STATES MAGISTRATE JUDGE
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