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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

REGINALD TANUBAGIJO,
Petitioner,
v.
DANIEL PARAMO,
Respondent.

No. 2:18-cv-02290-MCE-CKD

ORDER

Petitioner is a California inmate proceeding pro se and in forma pauperis in this habeas corpus action filed pursuant to 28 U.S.C. § 2254. On July 26, 2019, the district court judge adopted the Findings and Recommendations issued on March 13, 2019 and granted petitioner a stay and abeyance pursuant to Kelly v. Small, 315 F.3d 1063, 1074 (9th Cir. 2002). ECF No. 26. This same order directed petitioner to file a first amended § 2254 petition containing only his first claim for relief which was properly exhausted in state court. ECF No. 26 at 2. In compliance with this order, petitioner filed a first amended § 2254 petition on September 25, 2019. ECF No. 27. However, before the court could stay petitioner’s case to allow him to return to state court to exhaust a second claim for relief, petitioner filed untimely objections to the March 13, 2019 Findings and Recommendations as well as a second amended § 2254 petition which contains a second claim for relief that has not been properly exhausted in state court. ECF Nos. 28-29. Petitioner’s most recent pleadings do not comply with this court’s July 26, 2019 order.

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Accordingly, IT IS HEREBY ORDERED that:

1. Petitioner’s untimely objections and second amended § 2254 filed on October 3, 2019 (ECF Nos. 28, 29) are disregarded as filed in violation of a court order.
2. Petitioner’s first amended habeas corpus application (ECF No. 27) containing a single exhausted challenge to the trial court’s inquiry into juror misconduct is the pending operative pleading in the instant case.
3. The Clerk of Court is directed to administratively stay these proceedings in accordance with this court’s July 26, 2019 order.
4. Petitioner is directed to file a Status Report with this court every 90 days concerning his efforts to exhaust a second claim for relief in the California Supreme Court challenging the trial court’s jury instructions.
5. Petitioner is further advised to file a Notice of Exhaustion within 30 days of any decision issued by the California Supreme Court on this claim for relief.

Dated: October 9, 2019



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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