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5 UNITED STATES DISTRICT COURT
6 NORTHERN DISTRICT OF CALIFORNIA
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8 ISMAEL TOVAR CARRANZA,

No. C 07-1114 MHP (pr)

9 Petitioner,

ORDER RE. MOTION TO AMEND

10 v.

11 JAMES A. YATES, warden,

12 Respondent.
13 _____/

14 The petition for writ of habeas corpus in this action asserted a single claim, i.e., that
15 petitioner's constitutional right to a speedy trial had been violated. After the petition was
16 fully briefed, petitioner filed a request to amend his petition. The request indicates that
17 petitioner wants to assert additional claims for relief, although he does not identify the
18 federal constitutional basis for any of those new claims and apparently has not exhausted
19 state court remedies for those claims. The request to amend is DENIED without prejudice to
20 petitioner filing a new motion to amend and motion to stay this action that provide the
21 information described in the following paragraph. (Docket # 17.)

22 If petitioner has new claims he wants to present in federal court, he must file two
23 motions to accomplish that. First, he must file a motion to amend his petition to add the new
24 federal constitutional claims he wants to present. In his motion to amend, he must describe
25 each new claim by identifying the specific federal constitutional provision violated and
26 describing the facts that support that claim. Second, he must file a motion to stay this action
27 so that he can return to state court to exhaust state court remedies by presenting his claims to
28 the California Supreme Court. Any motion for a stay must comply with the requirements set
out in Rhines v. Weber, 544 U.S. 269 (2005): the motion for a stay must explain why

1 petitioner has not yet exhausted those unexhausted claims, explain that his unexhausted
2 claims are not meritless, and explain that he is not intentionally delaying resolution of his
3 constitutional claims. He should explain why each of the claims was not included on direct
4 appeal and why he waited about 20 months after filing his federal petition to assert the new
5 claims.

6 Petitioner must file and serve on respondent's counsel his motion to amend and motion
7 for a stay no later than **March 6, 2009**. Respondent must file and serve any opposition no
8 later than **March 27, 2009**. Petitioner must file and serve any reply brief in support of his
9 motions no later than **April 17, 2009**.

10 IT IS SO ORDERED.

11 DATED: January 23, 2009



Marilyn Hall Patel
United States District Judge

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