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United States District Court
For the Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FRANCISCO J. FENTANES,
Petitioner,

No. C 08-4681 PJH (PR)

vs.

**ORDER DISMISSING
WITHOUT PREJUDICE FOR
FAILURE TO EXHAUST**

SUPERIOR COURT OF THE STATE
OF CALIFORNIA, CONTRA COSTA
COUNTY,
Respondent.

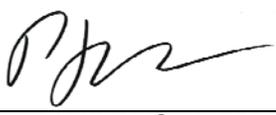
This is a habeas case filed pro se by a state prisoner. In the initial review order the court noted that plaintiff appeared not to have exhausted, and ordered him to show cause why the case should not be dismissed for failure to exhaust. He has responded.

In his response petitioner argues the merits of his claim and speculates about what happened to his pro se attempt to appeal, but provides no explanation for his failure to exhaust his claims by way of state habeas petitions, a route for exhausting them that was pointed out to him in the court's initial order. He therefore has failed to show cause for not exhausting.

The case is **DISMISSED** without prejudice to filing a new federal habeas case if petitioner first exhausts in state court.

IT IS SO ORDERED.

Dated: December 17, 2008.



PHYLLIS J. HAMILTON
United States District Judge