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**\*E-FILED - 11/12/08\***

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RAYMOND RODRIGUES, JR.,	)	No. C 06-4036 RMW (PR)
	)	
Petitioner,	)	ORDER OF DISMISSAL
	)	
vs.	)	
	)	
TOM CAREY, et al.,	)	
	)	
Respondents.	)	

Petitioner, a California prisoner proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 and a motion to proceed in forma pauperis. Petitioner conceded that his petition contained both exhausted and unexhausted claims. On September 11, 2008, the court denied his motion to stay the petition because he failed to demonstrate good cause under Rhines v. Weber, 544 U.S. 269 (2005) and Wooten v. Kirkland, 540 F.3d 1019 (9th Cir. 2008). That same day, the court ordered petitioner to file an amended petition containing only exhausted claims and informed him that failure to do so within thirty days of the date of the order would result in dismissal of the case. To date, petitioner has not responded with an amendment or other pleading.

Accordingly, this case is DISMISSED without prejudice for failure to prosecute and to comply with a court order pursuant to Federal Rule of Civil Procedure 41(b). The Clerk shall

1 close the file and enter judgment in this matter.

2 IT IS SO ORDERED.

3 Dated: 11/7/08

 for  
\_\_\_\_\_  
RONALD M. WHYTE  
United States District Judge

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