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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

REGINALD R. WILLIAMS,

Petitioner,

v.

GARY SANDOR, Warden,

Respondent.

Civil No. 10cv0665-DMS (WVG)

**ORDER DISMISSING FIRST
AMENDED PETITION WITHOUT
PREJUDICE**

On March 26, 2010, Petitioner, a state prisoner proceeding pro se, submitted a Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254, together with a request to proceed in forma pauperis. On March 30, 2010, the Court granted Petitioner’s application to proceed in forma pauperis and dismissed the Petition without prejudice due to Petitioner’s failure to allege exhaustion of his state court remedies with respect to any claim presented. (Doc. No. 3.) Petitioner was granted leave to file an amended petition in which he alleged exhaustion of state court remedies on or before May 28, 2010. (See 3/30/10 Order at 3.) He was specifically warned, however, that if he failed to allege exhaustion of his state court remedies by that date, he would have to start over by filing a new petition which would be given a new civil case number. (Id.) On April 30, 2010, Petitioner filed a First Amended Petition in which he has once again failed to allege exhaustion of state court remedies.

Rule 4 of the Rules Governing Section 2254 Cases provides for summary dismissal of a habeas petition “[i]f it plainly appears from the face of the petition and any attached exhibits that

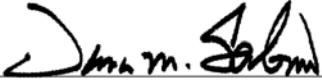
1 the petitioner is not entitled to relief in the district court . . .” Rule 4, 28 U.S.C. foll. § 2254.
2 Here, it appears plain from the First Amended Petition that Petitioner is not presently entitled
3 to federal habeas relief because he has once again failed to allege exhaustion of state court
4 remedies.

5 **CONCLUSION AND ORDER**

6 Based on the foregoing, the First Amended Petition is **DISMISSED** without prejudice
7 for failure to allege exhaustion of state court remedies. If Petitioner wishes to proceed with this
8 matter, he must file a Second Amended Petition which alleges exhaustion of state court remedies
9 on or before **May 28, 2010**. Petitioner is once again cautioned that if he has not alleged
10 exhaustion of his state court remedies before **May 28, 2010**, and still wishes to pursue his habeas
11 claims in this Court, he will be required to start over by filing a new federal habeas petition
12 which will be given a new civil case number.

13 **IT IS SO ORDERED.**

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15 DATED: May 6, 2010

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17 _____
18 HON. DANA M. SABRAW
19 United States District Judge

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Copies to: ALL PARTIES