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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

HENRY JOSEPH CASTILLO,)	CV F 05 0609 REC LJO HC
)	
Petitioner,)	FINDINGS AND RECOMMENDATION
)	
v.)	
)	
M. S. EVANS,)	
)	
Respondent.)	

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On July 29, 2004, Petitioner filed a federal petition for writ of habeas corpus in this Court. This petition was assigned case number "CV F 04 6032 OWW DLB HC."

On April 29, 2005, Petitioner filed a second federal petition for writ of habeas corpus in this Court. This petition was assigned case number "CV F 05 0609 REC LJO HC."

The Court has reviewed both of the pending federal petitions listed above and finds that the second petition challenges the same conviction and judgment as the first petition. In light of the duplicative nature of the petitions, the Court finds that the instant action should be dismissed. Should Petitioner wish to raise additional claims, he may only do so in the first pending action.

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RECOMMENDATION

Accordingly, the Court RECOMMENDS that the Petition for Writ of Habeas Corpus be DISMISSED as duplicative.

This Findings and Recommendation is submitted to the Honorable Robert E. Coyle, United States District Court Judge, pursuant to the provisions of 28 U.S.C. § 636 (b)(1)(B) and Rule 72-304 of the Local Rules of Practice for the United States District Court, Eastern District of California. Within thirty (30) days after being served with a copy, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned “Objections to Magistrate Judge’s Findings and Recommendation.” Replies to the objections shall be served and filed within ten (10) court days (plus three days if served by mail) after service of the objections. The Court will then review the Magistrate Judge’s ruling pursuant to 28 U.S.C. § 636 (b)(1)(C). The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

IT IS SO ORDERED.

Dated: May 16, 2005
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/s/ Lawrence J. O’Neill
UNITED STATES MAGISTRATE JUDGE