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

JAMES E. WASHINGTON,	)	No. CV-F-06-027 REC/LJO
	)	
	)	ORDER DISMISSING PETITION
	)	FOR WRIT OF MANDAMUS
Petitioner,	)	
	)	
vs.	)	
	)	
HONORABLE WILLIAM M.	)	
WUNDERLICH, et al.,	)	
	)	
Respondent.	)	
	)	
	)	

On January 9, 2006, a Petition for Writ of Mandamus captioned "IN THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT" was filed in this court and assigned the above-listed case number. Also filed on January 9, 2005 was an Application to Proceed In Forma Pauperis captioned "UNITED STATES DISTRICT COURT FOR EASTERN DISTRICT OF CALIFORNIA".

On January 25, 2006, a letter from petitioner addressed to the Clerk of this court was filed. In this letter, petitioner asserts that the Petition for Writ of Mandamus was sent to the

1 Ninth Circuit Court of Appeals for filing pursuant to Rule 21,  
2 Federal Rules of Appellate Procedure. He further asserts that  
3 the Clerk's Office for the Ninth Circuit erroneously forwarded  
4 the Petition for Writ of Mandamus to this court. Petitioner  
5 requests that this court "delete and withdraw the filing and the  
6 docketing of the petition for writ of mandamus filed in your  
7 office and sent [sic] the petition back to the Ninth Circuit  
8 Court of Appeals where the original Writ of Mandamus was directed  
9 for processing."

10 The court has reviewed the filings in the Ninth Circuit via  
11 Pacer. There is no record on Pacer of any filings by petitioner  
12 in the Ninth Circuit. The Certificate of Service attached at  
13 page 14 (out of 109) of the Petition for Writ of Mandate avers  
14 that petitioner served an original and three copies of the  
15 Petition for Writ of Mandate on the Ninth Circuit's Clerk's  
16 Office on December 19, 2005 and that petitioner served United  
17 States Magistrate Judge William M. Wunderlich in care of the  
18 Clerk, United States District Court, 1130 "O" Street, Room 5000,  
19 Fresno, CA on December 19, 2005. The court has also reviewed the  
20 documents submitted to this court for filing on January 9, 2005.  
21 All that was submitted to this court was one copy of the Petition  
22 for Writ of Mandate and a copy of the Motion to Proceed In Forma  
23 Pauperis. There is nothing accompanying these pleadings from  
24 which it may be determined who sent them to this court.

25 Because petitioner contends that he did not intend to file  
26 the Petition for Writ of Mandamus with this court for review and

1 resolution, the court will dismiss the Petition without further  
2 proceedings. The court will not transfer the pleadings filed  
3 with this court to the Ninth Circuit because it appears that  
4 petitioner's pleadings have already been sent to the Ninth  
5 Circuit for docketing and processing.

6 ACCORDINGLY:

7 1. The Petition for Writ of Mandamus is dismissed.

8 IT IS SO ORDERED.

9 Dated: January 31, 2006  
668554

/s/ Robert E. Coyle  
UNITED STATES DISTRICT JUDGE

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