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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GENE M. DANIELS,)	1:08-cv-01590 AWI YNP [DLB] (HC)
)	
Petitioner,)	ORDER FOR RESPONDENT TO RE-
)	SUBMIT MOTION TO DISMISS
v.)	
)	ORDER TO TERMINATE MOTION TO
)	DISMISS
T. FELKER, Warden,)	[Doc. #18]
)	
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 March 16, 2009, Respondent filed a motion to dismiss with one attachment, the certificate of service. Upon attempting to open the motion through the Court’s electronic docketing system, it appears that the certificate of service was uploaded as both the motion and the attachment and that the actual motion to dismiss was never filed. Accordingly, Respondent is ORDERED to re-submit the motion to dismiss within fifteen (15) days of this order.

Furthermore, Petitioner is granted thirty (30) days from the date of service of Respondent’s motion in which to object.

Accordingly, it is hereby ORDERED that

- 1) Respondent’s motion to dismiss be terminated (Doc. #18);
- 3) Respondent submit a motion to dismiss within fifteen (15) days of service of this order; and

1 3) Petitioner is granted thirty (30) days from the date of service of Respondent's motion in
2 which to file objections.

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IT IS SO ORDERED.

Dated: February 4, 2010

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE