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6 UNITED STATES DISTRICT COURT

7 EASTERN DISTRICT OF CALIFORNIA

8 DAVID WAYNE CROCKER, ) 1:09-CV-00970 LJO SMS HC  
9 )  
10 Petitioner, ) ORDER DENYING MOTION  
11 v. ) [Doc. #46]  
12 K. HARRINGTON, )  
13 Respondent. )

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

17 On February 23, 2010, the District Court issued an order that adopted the Findings and  
18 Recommendation in full, granted Respondent's motion to dismiss, dismissed the petition, and  
19 directed the Clerk of Court to enter judgment. On that same date, judgment was entered and the case  
20 was terminated. Petitioner then filed a notice of appeal and the appeal was processed to the Ninth  
21 Circuit Court of Appeals.

22 On March 31, 2010, Petitioner filed a motion in this Court which requested the Court to take  
23 judicial notice of a proof of service. Petitioner is advised that this case is closed and the appeal is  
24 now pending in the Ninth Circuit. Therefore, Petitioner must seek relief in the appellate court.

25 Accordingly, Petitioner's motion is DENIED.  
26 IT IS SO ORDERED.

27 **Dated: April 12, 2010**

28 **/s/ Sandra M. Snyder**  
UNITED STATES MAGISTRATE JUDGE