

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TIMMOTHY EARL HISSONG SR.,)	1: 11-cv-01397-LJO-BAM
)	
Plaintiff,)	
)	ORDER DIRECTING CLERK OF THE
v.)	COURT TO REDESIGNATE CASE AS A
)	HABEAS CORPUS ACTION
TULARE COUNTY, <i>et al.</i> ,)	
)	
Defendants.)	

Plaintiff, Timothy Earl Hissong Sr. (“Plaintiff”), a state prisoner, appearing pro se and proceeding in forma pauperis, filed the instant complaint on August 22, 2011. (Doc. 1.) Plaintiff’s initial complaint alleged civil rights violations under 42 U.S.C. § 1983 as well as claims for habeas corpus. (Doc. 1.)

On November 15, 2011, United States Magistrate Judge Barbara A. McAuliffe issued Findings and Recommendations recommending Plaintiff’s complaint be dismissed for failure to state a claim and further recommending Plaintiff be granted leave to file an amended complaint. (Doc. 22.) United States District Judge Lawrence J. O’Neill adopted the Findings and Recommendations on December 28, 2011. (Doc. 24.)

Plaintiff filed a First Amended Complaint on November 29, 2011. (Doc. 23.) Plaintiff submitted a 42 U.S.C. § 1983 complaint form, and additionally, Plaintiff listed in the caption the defendants which were alleged to be liable for violating Plaintiff’s civil rights in the original complaint. (Doc. 23.) Plaintiff also submitted a petition under 28 U.S.C. § 2254 for Writ of Habeas

1 Corpus By A Person In State Custody. *Id.* The allegations in both the Section 1983 form as well as
2 the Section 2254 form, however, relate solely to the propriety of Plaintiff's conviction and sentence.
3 There are no 42 U.S.C. § 1983 allegations against any defendant.

4 As such, it has been determined that Plaintiff's case should proceed as habeas corpus action.
5 The Clerk of the Court is directed to change the designation of the present case to reflect that of a
6 habeas corpus action. The new case number for this action, which must be used on all future
7 documents filed with the Court, is:

8 **1: 11-cv-01397-LJO-BAM (HC)**

9 All future pleadings shall be so numbered. Failure to use the correct case number may result in delay
10 in your documents being received by the correct judicial officer.

11 IT IS SO ORDERED.

12 **Dated: January 17, 2012**

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28