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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LEVI MICAH BARTER,
Petitioner,
v.
JERRY BROWN, Governor, et al.,
Respondents.

Case No. 1:14-cv-00151-SAB-HC
ORDER DISMISSING FIRST AMENDED
PETITION
[ECF NO. 11]

Petitioner is a state prisoner proceeding pro se with a petition for writ of mandamus pursuant to 28 U.S.C. § 1361. He has consented to the jurisdiction of the Magistrate Judge pursuant to 28 U.S.C. § 636(c).

On January 6, 2014, Petitioner filed a petition for writ of mandamus in the United States District Court for the Northern District of California. The petition was transferred to the Eastern District on January 29, 2014, and received in this Court. On February 25, 2014, the Court conducted a preliminary review and dismissed the petition for lack of jurisdiction. On February 21, 2014, prior to the Court's dismissal of the petition, Petitioner filed a first amended petition; however, the petition was not docketed until February 25, 2014, after the case had already been dismissed. Therefore, the amended petition was not considered in the Court's order.

The Court has reviewed the first amended petition and concludes it suffers from the same defects present in the original petition. Petitioner seeks a writ of mandamus directing the

1 governor to release him. Mandamus relief is not available in this case because Respondent is not
2 an officer, employee or agency of the United States. Tagupa v. East-West Center, Inc., 642 F.2d
3 1127, 1129 (9th Cir.1981); Piledrivers' Local Union No. 2375 v. Smith, 695 F.2d 390, 392 (9th
4 Cir.1982). Petitioner also presents new claims concerning his sentence. Petitioner is advised
5 that the proper avenue to challenge his sentence is by way of a petition for writ of habeas corpus
6 in the district where he was sentenced. In this case, Petitioner was sentenced in the Los Angeles
7 County Superior Court. Therefore, venue is proper in the Central District of California.

8 **ORDER**

9 Accordingly, IT IS HEREBY ORDERED:

- 10 1) The amended petition for writ of mandamus is DISMISSED; and
11 2) The case remains closed.

12 IT IS SO ORDERED.

13 Dated: February 25, 2014

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16 UNITED STATES MAGISTRATE JUDGE