

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**

PERRY WASHINGTON,

 Petitioner,

 v.

FRESNO COUNTY SHERIFF,

 Respondent.

Case Nos. 1:14-cv-00282-SKO-HC
 1:14-CV-00130-AWI-JLT-HC

ORDER CONSTRUING PETITION AS A
MOTION TO AMEND (DOC. 1)

ORDER DIRECTING THE CLERK TO FILE
DOC. 1 INTO CASE NO. 1:14-cv-00130-
AWI-JLT-HC AS A MOTION TO AMEND
(DOC. 1)

ORDER TERMINATING CASE

Petitioner is a prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter has been referred to the Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1) and Local Rules 302 and 303. Pending before the Court is the petition, which was filed on February 28, 2014.

I. Background

The petition challenges conditions at the Fresno County Jail, the institution at which Petitioner is confined, including denial of health care via denial of access to medical, service, and grievance forms; beatings by inmates and sheriff's officers; and refusal to

1 provide medical care for a variety of medical conditions allegedly
2 suffered by Petitioner.

3 Review of court records¹ reveals that Petitioner has a petition
4 pending in the case of Perry Washington v. Fresno County Sheriff,
5 case number 1:14-cv-00130-AWI-JLT-HC, in which Petitioner challenges
6 the same conditions and raises essentially the same claims.

7 In Woods v. Carey, 525 F.3d 886 (9th Cir. 2008), the court held
8 that a petition filed before a prior petition has been adjudicated
9 should be considered a motion to amend the prior petition rather
10 than a second or successive petition. Therefore, the instant
11 petition should and will be construed as a motion to amend the
12 petition in the prior case. The pleading will be ordered re-filed
13 in the prior case, and the instant case will be closed.

14 II. Disposition

15 Accordingly, IT IS HEREBY ORDERED:

16 1) The petition for writ of habeas corpus in this case is
17 CONSTRUED as a motion to amend the petition in case number 1:14-cv-
18 00130-AWI-JLT-HC; and

19 2) The Clerk of Court is DIRECTED to file the instant petition
20 (Doc. 1) as a motion to amend in Case No. 1:14-cv-00130-AWI-JLT-HC;

21 ///

22 ///

23 ///

24 ///

25 ¹ This Court "may take notice of proceedings in other courts, both within and
26 without the federal judicial system, if those proceedings have a direct relation
27 to matters at issue." U.S. ex rel. Robinson Rancheria Citizens Council v. Borneo,
28 Inc., 971 F.2d 244 (9th Cir.1992); see also MGIC Indem. Co. v. Weisman, 803 F.2d
500, 505 (9th Cir. 1986); United States v. Wilson, 631 F.2d 118, 119 (9th Cir.
1980). Accordingly, the Court takes judicial notice of the docket and pleadings in
Perry Washington v. Fresno County Sheriff, case number 1:14-cv-00130-AWI-JLT-HC.

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

and

3) The Clerk of Court is DIRECTED to terminate this case.

IT IS SO ORDERED.

Dated: March 5, 2014

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE