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8	UNITED ST	TATES DISTRICT COURT
9	EASTERN DISTRICT OF CALIFORNIA	
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11	CESAR ERNESTO RIVAS,) Case No.: 1:14-cv-01118-JLT
12	Petitioner,	ORDER CONSTRUING PETITION AS MOTION FOR LEAVE TO AMEND IN EARLIER CASE
13	v.	ý ,
14	MICHAEL L. BENOV,	ORDER DIRECTING CLERK OF THE COURT TODOCKET THE PETITION IN THIS CASE AS A
15	Respondent.) MOTION TO AMEND IN CASE NO. 1:14-cv-) 01109-SAB
16) ORDER DIRECTING THE CLERK OF THE
17		COURT TO CLOSE THIS CASE
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19	Petitioner is a federal prisoner proceeding in propria persona with a petition for writ of habeas	
20	corpus pursuant to 28 U.S.C. § 2241.	
21	PROCEDURAL HISTORY	
22	The instant petition was filed on July 17, 2014, challenging a prison disciplinary hearing	
23	conducted at the facility at which Petitioner is presently incarcerated. (Doc. 1). On July 16, 2014, the	
24	previous day, Petitioner had filed an almost identical petition in case no. 1:14-cv-01109-SAB ("14-	
25	1109"), challenging the same prison disciplinary proceeding, but omitting a signature.	
26	DISCUSSION	
27	In Woods v. Carey, 525 F.3d 886 (9 th Cir. 2008), the Ninth Circuit held that, under certain	
28	circumstances, if a pro se petitioner files a habeas petition during the pendency of a previous petition,	

the district court should construe the later-filed petition as a motion to amend the earlier-filed petition. Woods, 525 F.3d at 889-890. Hence, Woods require a district court to construe a "second or successive" petition filed while an earlier petition is still pending in the district court as a motion to amend the earlier petition.

Here, as mentioned, Petitioner first filed a habeas petition in this Court in case no. 14-1109 challenging prison discipline. The following day, he filed the instant petition. Both petitions appear virtually identical, except that Petitioner's prison discipline information is contained in the earlier-filed petition which omits a signature as required by federal law. Applying the Ninth Circuit's reasoning in Woods, this Court must treat the instant later-filed petition as a motion to amend the earlier-filed petition in case no. 14-1109. Accordingly, the Court will direct the Clerk of the Court to file this petition in case no.14-1109 as a motion to amend the petition in that case and will direct the Clerk of the Court to administratively close this case.

ORDER

For the foregoing reasons, IT IS HEREBY ORDERED as follows:

- 1. The Court construes the instant petition for writ of habeas corpus (Doc. 1), as a motion to amend the petition in case no. 1:14-cv-01109-SAB to include the claim raised herein;
- 2. The Clerk of Court is DIRECTED to docket in case no. 1:14-cv-01109-SAB the instant petition for writ of habeas corpus (Doc. 1) as a motion to amend;
- 3. The Clerk of Court is DIRECTED to close this case.

IT IS SO ORDERED.

November 5, 2014 Dated: /s/ Jennifer L. Thurston UNITED STATES MAGISTRATE JUDGE

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