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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RODERICK GENE REED,

Petitioner,

v.

ANDRE MATEVOUSIAN, Warden at USP
Atwater,

Respondent.

Case No. 1:15-cv-01019-SKO HC

ORDER DIRECTING RESPONDENT TO
SUPPLEMENT THE RECORD

Petitioner is a state prisoner proceeding *pro se* and *in forma pauperis* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. The Court referred the matter to the Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1) and Local Rules 302 and 304.

Respondent has moved to dismiss the petition, contending the Petitioner may not pursue his sentencing claims pursuant to § 2241. Respondent’s brief refers to three prior petitions under 28 U.S.C. § 2255, a prior petition under § 2241, and a petition to modify Petitioner’s sentence under 18 U.S.C. § 3582(c)(2), but provides no documentation of the petitions or decisions in the cases to which he refers. Respondent also asserts that certain affidavits and other evidence that Petitioner claims as newly discovered have previously been considered in one or more earlier of Petitioner’s earlier collateral actions but provides no documentation to support these statements other than citations to the dockets of the other district courts that adjudicated Petitioner’s earlier actions.

Pursuant to the Rule 5(d) of the Rules Governing Section 2254 Cases in the United States District Courts, “[t]he respondent must also file with the answer a copy of: (1) any brief that the

1 petitioner submitted in an appellate court contesting the conviction or sentence, or contesting an
2 adverse judgment or order in a post-conviction proceeding; (2) any brief that the prosecution
3 submitted in an appellate court relating to the conviction or sentence; and (3) the opinions and
4 dispositive orders of the appellate court relating to the conviction or sentence.” In addition,
5 Respondent must also provide copies of filed affidavits and other documentary evidence that
6 Petitioner contends are newly discovered but that Respondent contends have already been addressed
7 in earlier actions. *See* Rule 7 of the Rules Governing Section 2254 Cases in the United States
8 District Courts.

9 Accordingly, the Court hereby DIRECTS the Respondent to supplement the state record with
10 all relevant materials as set forth above. Respondent shall file the requested supplemental material
11 no later than thirty (30) days from the date of this order. This order requires no action by Petitioner.

12 IT IS SO ORDERED.

13
14 Dated: January 21, 2016

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE