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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

JUAN MANUEL MONTENEGRO FLORES,

Petitioner,

v.

DAVID BAUGHMAN,

Respondent.

Case No. 1:18-cv-00707-LJO-SAB-HC

ORDER DENYING AS MOOT  
PETITIONER’S MOTION TO UPHOLD  
FIRST AMENDED PETITION

(ECF No. 27)

ORDER DIRECTING CLERK OF COURT  
TO MAIL COPIES OF FINDINGS AND  
RECOMMENDATION, ORDER  
ADOPTING, AND JUDGMENT TO  
PETITIONER AT NEW ADDRESS

Petitioner is a state prisoner who proceeded pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Before the Court is Petitioner’s motion to uphold the first amended petition. (ECF No. 27). Therein, Petitioner claims that due to correctional officers’ actions, Petitioner was unable to timely file the first amended petition and requests the Court to “accept the petition in its natural form and allow his first amended petition for writ of habeas corpus to proceed in the federal courts without any bias or neglect.” (ECF No. 27 at 2).<sup>1</sup>

On December 13, 2018, the Court granted Petitioner leave to file an amended petition within sixty days. (ECF No. 16). On January 25, 2019, the Court received the first amended petition (“FAP”) in a timely manner. (ECF No. 20). On January 29, 2019, the Court ordered

<sup>1</sup> Page numbers refer to the ECF page numbers stamped at the top of the page.

1 Respondent to file a response to the FAP. (ECF No. 21). On March 29, 2019, Respondent filed a  
2 motion to dismiss the FAP. (ECF No. 22).

3 On May 8, 2019, the Magistrate Judge issued findings and recommendation to dismiss  
4 the FAP as untimely because it was filed after the statute of limitations had expired on June 15,  
5 2012. (ECF No. 24). This findings and recommendation was served on Petitioner and contained  
6 notice that any objections were to be filed within thirty (30) days of the date of service of that  
7 order. On May 28, 2019, the findings and recommendation was returned as undeliverable.  
8 Absent notice of a party's change of address, service of documents at the prior address of the  
9 party is fully effective. Local Rule 182(f).

10 On August 15, 2019, the Court adopted the findings and recommendation and dismissed  
11 the petition. (ECF No. 25). That same day, the judgment was entered. (ECF No. 26).

12 As set forth above, the FAP was timely filed and allowed to proceed in this matter.  
13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. Petitioner's motion to uphold the first amended petition (ECF No. 27) is DENIED as  
15 MOOT; and
- 16 2. The Clerk of Court is DIRECTED to mail copies of the findings and recommendation  
17 (ECF No. 24), the order adopting the findings and recommendation (ECF No. 25), and  
18 the judgment (ECF No. 26) to Petitioner at his new address.

19  
20 IT IS SO ORDERED.

21 Dated: October 3, 2019

/s/ Lawrence J. O'Neill  
UNITED STATES CHIEF DISTRICT JUDGE