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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

DAVID NATHANIEL ROBERTS,  
Plaintiff,  
v.  
SGT. HUCKLEBERRY, et al.,  
Defendants.

Case No.: 1:18-cv-01237 SAB (PC)  
ORDER REGARDING PLAINTIFF'S  
NOTICE TO COURT  
(ECF No. 24)  
ORDER DIRECTING CLERK OF COURT  
TO FILE PETITION FOR WRIT OF  
HABEAS CORPUS IN NEW ACTION  
(ECF No. 18)

Plaintiff David Nathaniel Roberts is a state prisoner proceeding *pro se* and *in forma pauperis* in a civil rights action pursuant to 42 U.S.C. § 1983.

On October 5, 2018, Plaintiff filed a petition for writ of habeas corpus under 28 U.S.C. § 2254 using the case number for this action, which was docketed in this matter. (ECF No. 18.) On October 19, 2018, the Court advised Plaintiff that it was not clear whether he intended to file a new habeas corpus action using the petition, or whether the document was in any way related to the instant action. The Court directed Plaintiff to inform the Court within thirty (30) days whether he would like the petition filed in a new, separate habeas corpus action, or the petition would be disregarded. (ECF No. 20, at 3.)

Currently before the Court is Plaintiff's notice, filed on November 5, 2018. (ECF No. 24.) Plaintiff's notice discusses several matters which have been dealt with by a separate order issued

1 on November 6, 2018. (ECF No. 25.) Regarding Plaintiff's petition for writ of habeas corpus,  
2 Plaintiff states that he would like to file a new, separate action with that petition. (ECF No. 24, at  
3 1.)

4 Accordingly, it is HEREBY ORDERED that:

5 1. The Clerk of Court is directed to open a new matter and file Plaintiff's petition for  
6 writ of habeas corpus, filed on October 5, 2018, (ECF No. 18), in that matter. Plaintiff's petition  
7 shall be filed as of the date of October 5, 2018;

8 2. A copy of this order shall also be filed in that new case matter; and

9 3. The Court will take no further action on Plaintiff's petition in the instant case.  
10 Plaintiff will be informed separately regarding the new matter dealing with his petition for writ of  
11 habeas corpus.

12 IT IS SO ORDERED.

13 Dated: November 7, 2018

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16 UNITED STATES MAGISTRATE JUDGE

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