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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MILTON OTIS LEWIS,	No. 2:02-cv-0013-TLN-EFB
Petitioner,	No. 2:17-cv-1112-TLN-EFB
v.	
RON DAVIS,	<u>ORDER</u>
Respondent.	

Petitioner is a state death row prisoner proceeding through counsel in Case No. 2:02-cv-00013, and without counsel in Case No. 2:17-cv-01112. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On September 21, 2017, the magistrate judge filed findings and recommendations in the above-captioned cases, which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fourteen days. (ECF No. 8.) Petitioner, through counsel, filed no objections to the findings and recommendations in Case No. 2:02-cv-00013. Petitioner proceeding pro se, however, has filed objections to the findings and recommendations in Case No. 2:17-cv-01112.

It appears from the objections that Petitioner seeks to use this federal habeas corpus petition to challenge a 2016 state court guardianship determination as well as his 1988 conviction and sentence. He claims the two are “related.” (ECF No. 9 at 2.) This relationship and the

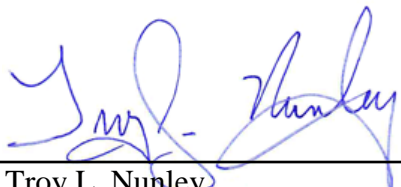
1 federal basis of Petitioner's challenge to the guardianship determination are both exceedingly  
2 unclear. As the magistrate judge noted, if Petitioner has additional claims relating to his  
3 conviction and/or sentence, he must follow the appropriate process for amending his existing  
4 habeas petition (Case No. 2:02-cv-0013). If Petitioner has unrelated claims stemming from the  
5 guardianship determination, he must file them in a separate action that does not also contain  
6 claims challenging his conviction and sentence.

7 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this  
8 Court has conducted a de novo review of this case. Having carefully reviewed the entire file, the  
9 Court finds the findings and recommendations to be supported by the record and by proper  
10 analysis.

11 Accordingly, IT IS HEREBY ORDERED that:

- 12 1. The findings and recommendations filed September 21, 2017, are adopted in full;
- 13 2. The petition filed as Case No. 2:17-cv-1112 is dismissed;
- 14 3. Petitioner is directed to file a motion to amend the petition, through counsel, in the  
15 earlier action, 2:02-cv-00013-TLN-EFB, if there are new bases on which he wishes to  
16 challenge his conviction or sentence;
- 17 4. The Clerk is directed to close Case No. 2:17-cv-01112; and
- 18 5. The Court declines to issue a certificate of appealability.

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20 Dated: March 5, 2018

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25 Troy L. Nunley  
26 United States District Judge  
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