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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY BERNARD SMITH,

Petitioner,

No. CIV S-03-1871 LKK KJM P

vs.

B. CURRY, Warden,

Respondent.

ORDER

_____/

On August 3, 2007, the district court granted the underlying habeas petition on one ground but denied it in all other respects. Respondent filed a notice of appeal and petitioner, through counsel appointed on March 20, 2007, filed a cross-appeal. The case was submitted after argument on December 10, 2008. See Ninth Circuit Court of Appeals Case Nos. 07-16875 & 07-16876.

Acting in pro per, petitioner has now filed a petition for a writ of mandate and declaratory relief, asking this court to direct the Sacramento County Superior Court to correct his abstract of judgment to reflect the order of the district court. However, because petitioner is represented by counsel, this court will not consider his pro per pleading.

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IT IS THEREFORE ORDERED that the petition for a writ of mandate and
declaratory relief (docket no. 80) is hereby denied.

DATED: February 11, 2009.



U.S. MAGISTRATE JUDGE

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