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

DOCK MCNEELY,

Petitioner,

No. 2:08-cv-0175 LEW JFM P

vs.

JOHN MCGINNESS, et al.,

Respondents

ORDER

_____/

On February 2, 2009, petitioner filed a motion for clarification, reconsideration or rehearing. Petitioner contends that because the Court of Appeals for the Ninth Circuit recalled the mandate, the court should revisit his prior filings and grant him relief. However, a review of the appellate court’s docket reflects that on February 2, 2009, the appellate court clarified its recall of the mandate. Although petitioner should soon receive his copy of the appellate court order, the docket entry for that order reads as follows:

This court’s order, filed on January 21, 2009, is hereby withdrawn. The motion for extension of time, filed in this court on November 18, 2008, is granted. The panel has voted to deny the petition for panel rehearing. The petition for panel rehearing and the petition for rehearing en banc are denied. The mandate was recalled after the correction of a docketing error. Accordingly, the motion to recall the mandate is denied as moot. The mandate shall reissue in due course. Appellant’s motion for appointment of counsel is denied as moot. No motions for reconsideration, clarification, or modification of this denial shall be filed or entertained. No further filings shall be accepted in this case. (SC)

(Case No. 08-15970, accessed through PACER on February 4, 2009.)

1 Accordingly, IT IS HEREBY ORDERED that petitioner's February 2, 2009
2 motion (#26) is denied. Petitioner is advised that this case was dismissed on April 4, 2008.
3 Documents filed by petitioner since the closing date will be disregarded and no orders will issue
4 in response to future filings.

5 DATED: February 4, 2009.

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8 UNITED STATES MAGISTRATE JUDGE

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