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

CHRISTOPHER COOK,

Petitioner,

No. CIV S-08-2305 EFB P

vs.

RICHARD B. IVES,

Respondent.

ORDER

_____/

Petitioner, a federal prisoner proceeding without counsel, seeks a writ of habeas corpus. *See* 28 U.S.C. § 2241. Petitioner has paid the filing fee. This proceeding was referred to this court by Local Rule 72-302 pursuant to 28 U.S.C. § 636(b)(1) and is before the undersigned pursuant to the parties’ consent. *See* 28 U.S.C. § 636; *see also* E.D. Cal. Local Rules, Appx. A, at (k)(1)-(2). This action proceeds on the January 5, 2009 amended petition, as the amended petition supercedes the original petition. *See Loux v. Rhay*, 375 F.2d 55, 57 (9th Cir. 1967).¹

A judge “entertaining an application for a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted,

¹ An amended petition “shall be retyped and filed so that it is complete in itself without reference to the prior or superseded pleading.” Local Rule 15-220.

1 unless it appears from the application that the applicant or person detained is not entitled
2 thereto.” 28 U.S.C. § 2243. It is not apparent from the face of the application that the petitioner
3 is not entitled to relief.

4 Accordingly, IT IS HEREBY ORDERED that:

5 1. Respondent shall file an answer or a motion in response to petitioner’s application
6 within 60 days from the date of this order. Any response shall be accompanied by any and all
7 transcripts or other documents relevant to the determination of the issues presented in the
8 application.

9 2. Petitioner’s reply, if any, shall be filed and served within 30 days of service of an
10 answer.

11 3. If the response to petitioner’s application is a motion, petitioner’s opposition or
12 statement of non-opposition shall be filed and served within 30 days of service of the motion,
13 and respondents’ reply, if any, shall be filed within 15 days thereafter.

14 4. The Clerk of the Court shall serve a copy of this order together with a copy of
15 petitioner’s January 5, 2009, amended petition for a writ of habeas corpus, with any and all
16 attachments on the United States Attorney.

17 DATED: August 24, 2009.

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19 EDMUND F. BRENNAN
20 UNITED STATES MAGISTRATE JUDGE
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