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

JACK LEE TOWNSEND,

Petitioner,

No. 2:08-cv-2780-FCD-JFM (HC)

vs.

M. A. McDONALD,

Respondent.

ORDER

_____ /

Petitioner is a state prisoner proceeding pro se and in forma pauperis with an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. By order filed December 16, 2008, respondent was directed to file an answer to the petition within forty-five days. On December 18, 2008, petitioner filed a document styled as an amended petition. Petitioner’s original petition contains eight claims for relief. The amended petition contains only one claim for relief, a claim which is not raised in the original petition. While petitioner is entitled to amend his petition once as of right, see Fed. R. Civ. P. 15; Rule 11, 28 U.S.C. foll. § 2254, it is not clear whether petitioner intends the petition filed on December 18, 2008 to serve as an amended petition or, instead, as a supplemental petition.

Good cause appearing, both the original and the amended petition will be dismissed and petitioner will be granted thirty days in which to file a second amended petition

1 that includes all of the claims that he seeks to raise in this action. The schedule set in this court's
2 December 16, 2008 order will be vacated and respondent will be relieved of the obligation to
3 answer any of petitioner's claims until further order of court.

4 In accordance with the above, IT IS HEREBY ORDERED that:

5 1. Petitioner's original and amended petitions for writ of habeas corpus are
6 dismissed with leave to amend;

7 2. Within thirty days from the date of this order, petitioner shall complete the
8 attached Notice of Amendment and submit the following documents to the court:

9 a. The completed Notice of Amendment; and

10 b. An original and one copy of a Second Amended Petition.

11 3. Any second amended petition must bear the case number assigned to this
12 action and the title "Second Amended Petition" and must contain all the claims petitioner seeks
13 to raise in this action;

14 4. The Clerk of the Court is directed to send petitioner the court's form for
15 application for writ of habeas corpus; and

16 5. The schedule set forth in this court's December 16, 2008 order is vacated and
17 respondent is relieved of the obligation to answer any of petitioner's claims until further order of
18 court.

19 DATED: January 13, 2009.

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22 UNITED STATES MAGISTRATE JUDGE

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

JACK LEE TOWNSEND,

Petitioner,

No. 2:08-cv-2780-FCD-JFM (PC)

vs.

M. A. McDONALD,

NOTICE OF AMENDMENT

Respondents.

_____ /

Petitioner hereby submits the following document in compliance with the court's
order filed _____:

_____ Second Amended Petition

DATED:

Petitioner