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

CLIFTON FREEMAN,

Petitioner,

No. CIV S-09-1180 FCD KJM P

vs.

D.K. SISTO, et al.,

Respondents.

ORDER

_____/

Petitioner is a state prisoner proceeding pro se with an application for writ of habeas corpus under 28 U.S.C. § 2254. His petition challenges the Board of Prison Terms' denial of his parole in 2007. On July 27, 2010, he filed another petition challenging the Board's subsequent denial of parole in 2009. Although petitioner did not style or draft that petition with reference to this action, it was erroneously docketed in this case as a first amended petition. Petitioner states that he intended to initiate a new case with that pleading, and nothing in the petition itself suggests otherwise. See Docket No. 15. As both parties correctly point out, a petition challenging the Board's denial of parole in 2009 constitutes an entirely new, separate action for habeas relief.

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Accordingly, IT IS HEREBY ORDERED that:

1. The document docketed as "First Amended Petition" (Docket No. 13) is severed from this action.

2. The Clerk of Court is directed to open a new case and file the petition docketed in this case as "First Amended Petition" (Docket No. 13) as the initial, original pleading therein. The docket in the new case should reflect that the petition challenging the denial of parole in 2009 was docketed in this court as of July 27, 2010.

DATED: November 2, 2010.



U.S. MAGISTRATE JUDGE

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