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

JOSE MANUEL PEREZ,

Petitioner,

No. CIV-S-09-2474 FCD KJN (TEMP) P

vs.

JAMES WALKER,

Respondent.

ORDER

\_\_\_\_\_ /

Petitioner is a California prisoner proceeding without counsel with a petition for writ of habeas corpus under 28 U.S.C. § 2254. Respondent has filed a motion to dismiss.

After reviewing the court’s file the court has ascertained petitioner challenges two separate prison disciplinary proceedings: 2005 proceedings concerning a charge of sexual harassment; and 2007 proceedings concerning possession of alcohol. However, petitioner may only challenge one disciplinary proceeding per habeas action. See Rule 2(e), Rules Governing Section 2254 Cases (habeas petitioner may challenge judgment of only one state court per habeas petition); Crane v. McDonald, No. CIV-S-09-1511 DAD P, 2010 WL 3633616, at \*3 (E.D. Cal., Nov. 18, 2010) (habeas petitioner may not challenge two parole proceedings in same action); Melchhionne v. Tilton, No. 1:08-cv-00116 OWW DLB HC, 2008 WL 608385, at \*2 (E.D. Cal. March 4, 2008) (habeas petitioner must file three different actions to challenge prison

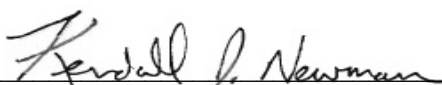
1 disciplinary proceedings, denial of parole and conviction).

2           In light of the foregoing, petitioner's original habeas petition will be dismissed.  
3 Petitioner will be granted leave to submit an amended petition in which petitioner challenges  
4 either the 2005 or 2007 prison disciplinary proceedings addressed in his original petition, but not  
5 both. If petitioner wishes to challenge other disciplinary proceedings, he must initiate a separate  
6 action. Failure to file an amended petition which complies with this order will result in a  
7 recommendation that this action be dismissed. Respondent's pending motion to dismiss will be  
8 denied as moot. Respondent need take not any further action until directed by the court. Upon  
9 receipt of petitioner's amended petition, the court will review it as is required under Rule 4 of the  
10 Rules Governing Section 2254 cases.

11           Accordingly, IT IS HEREBY ORDERED that:

- 12           1. Petitioner's application for writ of habeas corpus is dismissed;
- 13           2. The Clerk of the Court is directed to send petitioner the court's form-  
14 application for writ of habeas corpus by state prisoners.
- 15           3. Petitioner is granted thirty days within which to file an amended petition for  
16 writ of habeas corpus on the form provided by the Clerk of the Court. In the amended petition  
17 petitioner may challenge either the 2005 or 2007 prison disciplinary proceedings addressed in his  
18 original petition, but not both. Failure to file an amended petition which complies with this order  
19 will result in a recommendation that this action be dismissed.
- 20           4. Respondent's motion to dismiss (#7) is denied as moot and respondent need  
21 take no further action until directed by the court.

22 DATED: January 19, 2011

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25 KENDALL J. NEWMAN  
26 UNITED STATES MAGISTRATE JUDGE