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

SHAKA SENEGAL MUHAMMAD,

Petitioner,

No. 2:09-cv-2503 LKK KJN P

vs.

WARDEN D.K. SISTO, et al.,

Respondents.

ORDER

_____ /


Petitioner is a state prisoner proceeding without counsel with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On September 8, 2010, petitioner filed a motion for judicial notice, which was entered on the court’s docket September 9, 2010. On September 9, 2010, respondents’ motion to dismiss was granted and petitioner was granted leave to file a second amended petition. First, to the extent petitioner seeks the court’s consideration of the motion in connection with respondents’ motion to dismiss, petitioner’s motion is untimely. The Federal Rules of Civil Procedure and the court’s local rules contemplate the filing of a motion, opposition and a reply. Fed. R. Civ. P. 12; Local Rule 230. Petitioner’s motion should have been filed with his March 23, 2010 opposition. Second, if petitioner wishes the court to consider the case cited in his motion for judicial notice in connection with the merits of this case, he should include the citation in his second amended petition. No separate request for judicial

1 notice of a court case is required if petitioner is citing the case in support of the merits of his
2 second amended petition.

3 In light of the above, IT IS HEREBY ORDERED that petitioner's September 8,
4 2010 motion for judicial notice (dkt. no. 23) is denied without prejudice.

5 DATED: September 13, 2010

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KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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