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

10 TAHEE ABD' RASHEED
11 aka JAMES SMITH,

12 Petitioner,

No. CIV S-10-0192 GGH P

13 vs.

14 J. WALKER, Warden,

15 Respondent.

ORDER

16 _____/
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18 Petitioner, a state prisoner proceeding pro se, has filed a document entitled "28
19 U.S.C. § 1651(a) (All Writs Act....)", which the court will liberally construe as an application for
20 a writ of habeas corpus pursuant to 28 U.S.C. § 2254.¹ Petitioner has not filed an in forma
21 pauperis affidavit or paid the required filing fee (\$5.00). See 28 U.S.C. §§ 1914(a); 1915(a).

22 Petitioner's filing is somewhat difficult to unravel. Petitioner claims to be falsely
23 imprisoned in violation of Cal. Penal Code §§ 1382, 1182, 1170.12 A-D and the Sixth and
24 Fourteenth Amendments. Petition, p. 1. Within his petition, he appears to be challenging the
25 same San Mateo County conviction that he has, apparently successively, been attacking since at

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¹ Although this application was filed on January 25, 2010, due to a Clerk's Office docketing error, it has just come to this court's attention.

1 least 2004. The court takes judicial notice² of two Fresno Division cases, Case No. CIV-S-04-
2 5352 AWI DLB and Case No. CIV-06-1040 AWI SMS, both of which were transferred to
3 Northern District which encompasses the San Mateo County Superior Court.

4 While both this Court and the United States District Court in the district where
5 petitioner was convicted have jurisdiction, see Braden v. 30th Judicial Circuit Court, 410 U.S.
6 484 (1973), any and all witnesses and evidence necessary for the resolution of petitioner's
7 application are more readily available in San Mateo County. Id. at 499 n.15; 28 U.S.C.
8 § 2241(d).³

9 Accordingly, in the furtherance of justice, IT IS HEREBY ORDERED that:

10 1. Petitioner's application to proceed in forma pauperis has not been filed; and

11 2. This matter is transferred to the United States District Court for the Northern
12 District of California.

13 DATED: May 27, 2010

14 /s/ Gregory G. Hollows

15 _____
16 GREGORY G. HOLLOWES
UNITED STATES MAGISTRATE JUDGE

17 GGH:009/mp
18 rash0192.108

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23 ² Judicial notice may be taken of court records. Valerio v. Boise Cascade Corp., 80 F.R.D.
24 626, 635 n.1 (N.D. Cal. 1978), aff'd, 645 F.2d 699 (9th Cir.), cert. denied, 454 U.S. 1126 (1981).

25 ³ Nevertheless, on the face of it, this application appears, at a minimum, to be a second
26 successive petition for which petitioner must first seek authorization by the Ninth Circuit before
proceeding. See 28 U.S.C. 2244(b)(3); Rule 9, Rules Governing Section 2254 Cases.