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

GARY ULUKIVAIOLA,

Petitioner,

No. CIV S-10-1350 WBS EFB P

vs.

L.S. McEWEN, Warden,

Respondent.

ORDER

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Petitioner, a state prisoner proceeding without counsel, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On September 22, 2011, the assigned district judge granted petitioner leave to file an amended habeas petition within 30 days. Petitioner filed his amended petition on November 14, 2011.

Petitioner also filed a “request for relief from default” together with his amended petition. This document explains that the amended petition was timely submitted to prison officials for mailing, but was returned to him after it had been opened and stapled shut. He asks that his amended petition be timely filed.

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1           Accordingly, it is hereby ORDERED that petitioner's request to have his first amended  
2 petition deemed timely filed is granted, and the Clerk is directed to terminate docket entry 25.

3 DATED: January 30, 2012.

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5 EDMUND F. BRENNAN  
6 UNITED STATES MAGISTRATE JUDGE  
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