

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

KENNETH B. POLLARD,

Petitioner,

No. 2:10-cv-2545 GEB KJN P

vs.

COLE, RDPD,

Respondent.

KENNETH B. POLLARD,

Petitioner,

No. 2:10-cv-3103 KJN P

vs.

PAROLE, RDPD Redding, et al.,

Respondents.

ORDER

Petitioner is a state prisoner proceeding without counsel. On November 17, 2010, petitioner filed a petition for writ of habeas corpus, which was opened as a new case, Case No. 2:10-cv-3103 KJN P. However, a review of court records indicates that petitioner previously filed a letter, construed as a petition for writ of habeas corpus, raising similar allegations. See

1 Case No. 2:10-cv-2545 GEB KJN P.¹ By order filed September 29, 2010, in Case No. 2:10-cv-
2 2545, petitioner was directed to file an application for writ of habeas corpus, and an application
3 to proceed in forma pauperis. (Id., Dkt. No. 3.) Petitioner's copy of the order was returned as
4 undeliverable. (Id., Dkt. No. 4.) On October 7, 2010, findings and recommendations issued
5 recommending that Case No. 2:10-cv-2545 be dismissed for petitioner's failure to keep the court
6 apprised of his current address. On October 18, 2010, petitioner's copy of the findings and
7 recommendations was also returned as undeliverable.

8 Petitioner was incarcerated at High Desert State Prison when he filed Case No.
9 2:10-cv-2545, as well as when he filed Case No. 2:10-cv-3103. It is unclear from the docket
10 sheet why petitioner's copies of the order and findings and recommendations were returned as
11 undeliverable. Good cause appearing, the findings and recommendations will be vacated.

12 In light of the above, it appears the instant action was opened in error, as the
13 petition and application to proceed in forma pauperis should have been filed in Case No. 2:10-cv-
14 2545 GEB KJN P. Petitioner is cautioned that all future filings should contain the case number
15 2:10-cv-2545 GEB KJN P.

16 Accordingly, IT IS HEREBY ORDERED that:

17 1. The Clerk of the Court shall file the instant petition and application to proceed
18 in forma pauperis (Dkt. Nos. 1 & 2), in Case No. 2:10-cv-2545 GEB KJN P.

19 2. The October 7, 2010 findings and recommendations issued in Case No. 2:10-
20 cv-2545 GEB KJN P are vacated.

21 3. The Clerk of the Court shall close Case No. 2:10-cv-3103 KJN P.

22 DATED: December 2, 2010

23 
24 KENDALL J. NEWMAN
25 UNITED STATES MAGISTRATE JUDGE

26 poll3103.clo

¹ A court may take judicial notice of court records. See MGIC Indem. Co. v. Weisman,
803 F.2d 500, 505 (9th Cir. 1986).