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

LENNI WILKES,

Petitioner,

No. 2:10-cv-2997 GEB DAD (HC)

vs.

M. D. MCDONALD,

Respondent.

ORDER

_____ /

Petitioner is a state prisoner proceeding pro se with an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. By order filed May 19, 2011, this action was dismissed due to petitioner’s failure to properly exhaust his claims in state court before seeking federal habeas relief. Judgment was entered on the same day.

On December 12, 2011, petitioner filed a motion to amend his petition. (Doc. No. 24.) The court construes petitioner’s motion as a motion for relief from judgment pursuant to Fed. R. Civ. P. 60(b). Good cause appearing, petitioner will be granted a period of thirty days in which to supplement his motion by filing a proposed amended habeas corpus petition. Failure to file a proposed amended petition will result in the denial of petitioner’s pending motion.

In accordance with the above, IT IS HEREBY ORDERED that:

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1. Petitioner’s December 12, 2011 motion to amend (Doc. No. 24) is construed as a motion for relief from judgment pursuant to Fed. R. Civ. P. 60(b);

2. Petitioner is granted thirty days from the date of this order to supplement his December 12, 2011 motion by filing a proposed amended petition;

3. Any amended petition must be filed on the form provided with this order, must name the proper respondent, and must state all claims and prayers for relief on the form; it must bear the case number assigned to this action and the title “Amended Petition”; failure to file an amended petition will result in the denial of petitioner’s pending motion; and

4. The Clerk of the Court is directed to send petitioner the court’s form petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

DATED: January 5, 2012.



DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

DAD:12
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