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

ROBERT DUANE FRANKLIN,

Petitioner,

No. CIV S-11-2498 MCE CKD P

vs.

KATHLEEN L. DICKINSON,

Respondent.

ORDER

_____ /

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On October 7, 2011, the undersigned issued findings and a recommendation that the petition be summarily dismissed because it challenged petitioner’s conditions of confinement, and thus should have been brought pursuant to 42 U.S.C. § 1983.

On December 1, 2011, petitioner filed objections to the findings and recommendations, stating that he “now seeks to invalidate (an) order which revoked his parole.” (Dkt. No. 10 at 3.) The court will therefore vacate its earlier recommendation of summary dismissal and grant petitioner leave to file an amended petition challenging the duration of his confinement pursuant to 28 U.S.C. § 2254. Petitioner is advised that any claims in the amended petition concerning conditions of confinement – e.g., retaliation or denial of family visits – are

1 not cognizable under section 2254 and will be disregarded.

2 Accordingly, IT IS HEREBY ORDERED that:

3 1. The findings and recommendations filed October 7, 2011, are vacated;

4 2. Petitioner's application for a writ of habeas corpus is dismissed without
5 prejudice; and

6 3. Petitioner is granted thirty days from service of this order to file an amended
7 petition, titled "First Amended Petition."

8 Dated: March 30, 2012

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10 CAROLYN K. DELANEY
11 UNITED STATES MAGISTRATE JUDGE

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