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

RAYMOND WALKER,

Petitioner,

No. CIV S-11-2717 KJM DAD P

vs.

GREG LEWIS,

Respondent.

ORDER

_____ /

Petitioner is a state prisoner proceeding pro se with a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On November 3, 2011, the undersigned issued findings and recommendations recommending that this action be dismissed because petitioner had previously filed a federal habeas petition challenging the same 2006 state court conviction and may not proceed in this court with a second petition challenging the same conviction without obtaining an order from the United States Court of Appeals for the Ninth Circuit authorizing the district court to consider such a second or successive application. See 28 U.S.C. § 2244(b)(3); see also McNabb v. Yates, 576 F.3d 1028, 1030 (9th Cir. 2009) (“dismissal of a section 2254 habeas petition for failure to comply with the statute of limitations renders subsequent petitions second or successive for purposes of the AEDPA, 28 U.S.C. §2244(b).”). On November 17, 2011, petitioner filed a document styled, “Responding to the Order and Recommendations,” in

1 which petitioner requests clarification regarding where he should proceed in order to challenge
2 his state court conviction.

3 Once again, if petitioner intends to challenge his 2006 state court conviction, he
4 must first obtain authorization for the U.S. Court of Appeals for the Ninth Circuit. Because
5 petitioner must obtain this authorization, the undersigned has recommended that petitioner's
6 pending habeas action be dismissed. Should petitioner obtain the required authorization, he may
7 file a new habeas action with this court. In the interest of justice, the court will grant petitioner
8 an additional ten days to file any objections to the findings and recommendations should
9 petitioner disagree with the recommendation that his pending habeas action be dismissed.
10 Objections will be considered by the District Judge assigned to this case.

11 Accordingly, IT IS HEREBY ORDERED that within ten days from the service of
12 this order, petitioner may filed objections to the findings and recommendations filed on
13 November 3, 2011. The document should be captioned "Objections to Magistrate Judge's
14 Findings and Recommendations."

15 DATED: November 28, 2011.

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19 DALE A. DROZD
20 UNITED STATES MAGISTRATE JUDGE

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