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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DOUGLAS DWAYNE GIRLEY,
Petitioner,
v.
GARY SWARTHOUT,
Respondent.

No. 2:12-cv-1938 KJM KJN P

ORDER

Petitioner is a state prisoner, proceeding without counsel, with a petition for writ of habeas corpus. On February 28, 2014, petitioner’s motion for stay and to amend was denied, and petitioner was granted thirty days in which to file a reply to respondent’s answer. On March 27, 2014, under the mailbox rule, petitioner filed a document addressed to the San Joaquin County Superior Court and styled, “Petition for Rehearing Request for DNA Testing.” (ECF No. 40.) The filing is directed to the judge of the San Joaquin County Superior Court and the District Attorney, and petitioner seeks “rehearing and reconsideration of its opinion March 7, 2012.” (ECF No. 40.)

It appears petitioner mailed the March 27, 2012 filing to the wrong court. No opinion issued from this court on or about March 7, 2012; indeed, this action was not opened until July 24, 2012. Moreover, the claims contained in the petition do not relate to DNA evidence. (ECF No. 1.) If petitioner seeks rehearing or reconsideration of an opinion issued by the San Joaquin

1 County Superior Court, petitioner should file his motion in the San Joaquin County Superior
2 Court. In an abundance of caution, petitioner will be granted an additional twenty-one days in
3 which to file a reply to respondent's answer.

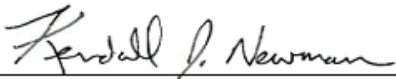
4 Accordingly, IT IS HEREBY ORDERED that:

- 5 1. Petitioner's motion (ECF No. 40) is denied without prejudice; and
- 6 2. Petitioner is granted twenty-one days in which to file a reply to respondent's answer.

7 Dated: April 3, 2014

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KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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