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

STEVEN HECTOR MARTINEZ,

Petitioner,

No. 2:12-cv-3063 EFB P

vs.

UNKNOWN,

Respondent.

ORDER

_____/

Petitioner, a state prisoner without counsel, filed a motion for an extension of time without filing a petition for writ of habeas corpus. The filing does not provide any specifics regarding petitioner’s state conviction or contain any claims for relief.

To commence a civil action, a party is required to file a complaint or petition. Fed. R. Civ. P. 3; Rule 3, Rules Governing § 2254 Cases; *Woodford v. Garceau*, 538 U.S. 202, 203 (2003). Petitioner’s filing constitutes neither. As petitioner has failed to properly commence this action, the court may not properly rule on his motion for an extension of time. *See Delarm v. McDonald*, No. Civ-S-11-0750 CKD P, 2011 WL 6012346, *2 n.6 (E.D. Cal. Dec. 1, 2011) (“filing a request for an extension of time to file a § 2254 habeas petition before the petition has actually been filed is not proper as there is no § 2254 action until the petition has been filed . . .”).

1 Petitioner is warned that his filing does not act as a protective petition for purposes of the
2 Anti-Terrorism and Effective Death Penalty Act of 1996's one-year statute of limitation. If
3 petitioner wishes to proceed with this case, he must file a petition.

4 Accordingly, it is hereby ORDERED that:

5 1. Petitioner shall file a petition for writ of habeas corpus within 30 days of the date of
6 this order;

7 2. Petitioner is warned that failure to do so will result in this case being closed; and

8 3. The Clerk of the Court is directed to send petitioner the court's form for application
9 for writ of habeas corpus.

10 DATED: January 4, 2013.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE