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

ANTHONY RECARDO G. TURNER,

Petitioner,

No. 2:13-cv-0454 WBS JFM P

vs.

PAUL RICHARDSON, et al.,

ORDER

Respondents.

_____ /

Petitioner, a state prisoner proceeding pro se, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, together with an application to proceed in forma pauperis.

Examination of the in forma pauperis application reveals that petitioner is unable to afford the costs of suit. Accordingly, the application to proceed in forma pauperis will be granted. See 28 U.S.C. § 1915(a).

Petitioner filed this action on or about February 19, 2013.¹ He challenges a 2010 conviction entered in the Yolo County Superior Court and the eighteen year sentence imposed

¹ See Houston v. Lack, 487 U.S. 266, 276 (1988).

1 thereon. Court records reflect that petitioner previously filed a federal habeas corpus action
2 challenging the same conviction, Case No. 2:10-cv-3424 DAD.² That action was dismissed
3 without prejudice on April 27, 2011 due to petitioner's failure to file a second amended petition.
4 Subsequently, on July 21, 2011, petitioner filed an amended petition in that action. He was
5 notified that the case had been closed and that the court would not issue any orders in response to
6 the filing of that petition. See ECF No. 20 in Case No. 2:10-cv-3424 DAD.

7 Petitioner has raised in the petition at bar one or more cognizable claims for
8 violation of his constitutional rights. After review of the record in this action and in Case No.
9 2:10-cv-3424 DAD, it appears that complex questions concerning a possible statute of
10 limitations bar may be presented. In light of the complexity of the legal issues involved, the
11 court has determined that the interests of justice require appointment of counsel. See 18 U.S.C.
12 § 3006A(a)(2)(B); see also Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). Accordingly,
13 the court will appoint the Federal Defender to represent petitioner.

14 Since petitioner has filed two separate petitions challenging the instant
15 conviction, and good cause appearing, the petition filed in this action will be dismissed and the
16 Federal Defender will be granted sixty days in which to file an amended petition. The court will
17 make subsequent orders for proceedings in this action following the filing of the amended
18 petition. All of petitioner's outstanding motions will be denied without prejudice.

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

- 20 1. Petitioner's February 28, 2013 motion to proceed in forma pauperis (ECF No.
21 2) is granted;
- 22 2. Petitioner's March 21, 2013 motion for appointment of counsel (ECF No. 13)
23 is granted;
- 24 3. The Federal Defender is appointed to represent petitioner.

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26 ² A court may take judicial notice of court records. See MGIC Indem. Co. v. Weisman,
803 F.2d 500, 505 (9th Cir. 1986); United States v. Wilson, 631 F.2d 118, 119 (9th Cir. 1980).

1 4. The Clerk of the Court is directed to serve a copy of the petition filed in this
2 action on February 28, 2013 (ECF No. 1), a copy of the document docketed on July 21, 2011 as a
3 First Amended Petition (ECF No. 20) in Case No. 2:10-cv-3424 DAD, and this order on David
4 Porter, Assistant Federal Defender.

5 5. Petitioner's counsel shall contact the Clerk's Office to make arrangements for
6 copies of documents in this file and in Case No. 2:10-cv-3424 DAD.

7 6. Petitioner's petition is dismissed with leave to file an amended petition within
8 sixty days.

9 7. Petitioner's March 14, 2013 motion to proceed in forma pauperis (ECF No. 7)
10 is denied as moot;

11 8. Petitioner's March 14, 2013 motion for an order to show cause (ECF No. 8) is
12 denied without prejudice;

13 9. Petitioner's March 27, 2013 motion for an order to show cause (ECF No. 15) is
14 denied without prejudice;

15 10. Petitioner's April 4, 2013 motion to expedite review (ECF No. 18) is denied;
16 and

17 11. Petitioner's April 10, 2013 motion for default judgment (ECF No. 19) is
18 denied.

19 DATED: April 23, 2013.

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22 ALLISON CLAIRE
23 UNITED STATES MAGISTRATE JUDGE
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