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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID EDWARD FULLMORE,  
Petitioner,  
v.  
KIM HOLLAND, Warden,  
Respondent.

No. 2:14-cv-1691-EFB P

ORDER

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On March 5, 2014, he filed a petition for writ of habeas corpus in this court. *See Fullmore v. McDonald*, No. 2:14-cv-614-EFB, ECF No. 1. The petition challenges petitioner’s 2011 conviction in Sacramento County Superior Court for second degree robbery and false imprisonment. On July 2, 2014, respondent filed an answer. The matter now stands submitted for decision by the court.

On July 17, 2014, petitioner commenced this action by filing a new petition for writ of habeas corpus. ECF No. 1. The petition also challenges the 2011 conviction out of Sacramento County Superior Court. “[W]here a new pro se petition is filed before the adjudication of a prior petition is complete, the new petition should be construed as a motion to amend the pending petition rather than as a successive application.” *Woods v. Carey*, 525 F.3d 886, 888-890 (9th Cir. 2008).

1           In this case, the petition filed in *Fullmore v. McDonald*, No. 2:14-cv-614-EFB has not  
2 been adjudicated. Therefore, the court will construe the instant petition as a motion to amend the  
3 previously-filed petition.

4           Accordingly, IT IS HEREBY ORDERED that:

- 5           1. The Clerk of the Court shall file the petition (ECF No. 1) in Case No. 2:14-cv-614-EFB as  
6 a motion to amend;
- 7           2. The Clerk shall file a copy of this order in Case No. 2:14-cv-614-EFB and close this case;  
8 and
- 9           3. Petitioner is instructed that all future pleadings should be identified by the case number:  
10 2:14-cv-614-EFB.

11 DATED: August 28, 2014.

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13 EDMUND F. BRENNAN  
14 UNITED STATES MAGISTRATE JUDGE  
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