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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

HOLLIE GARRETT, III,  
  
                                  Petitioner,  
  
                  v.  
  
LIZARRAGA,  
  
                                  Respondent.

No. 2:17-cv-930-EFB P

ORDER

Petitioner is a state prisoner without counsel seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He has filed what appears to be a duplicative petition. On August 15, 2014, he filed an initial petition for writ of habeas corpus in this court. *See Garrett v. Grounds*, No. 2:14-cv-1973-JAM-DB (E.D. Cal.), ECF No. 1. That petition challenges the judgment of conviction entered in the Sacramento County Superior Court, Case No. 09F01253. On December 2, 2014, respondent filed an answer and on December 12, 2016, petitioner filed a traverse and the matter now stands submitted.

On May 2, 2017, petitioner filed the petition in this action, ECF No. 1, which also challenges the judgment of conviction entered in the Sacramento County Superior Court, Case No. 09F01253. “[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 the first action has not been adjudicated. Therefore, the  
2 instant petition is construed as a motion to amend the previously-filed petition.

3 Accordingly, IT IS HEREBY ORDERED that:

4 1. The Clerk of the Court shall file the petition (ECF No. 1) in Case No. 2:14-cv-1973-  
5 JAM-DB as a motion to amend;

6 2. The Clerk shall file a copy of this order in Case No. 2:14-cv-1973-JAM-DB and close  
7 this case; and

8 3. Petitioner is instructed that all future pleadings should be identified by the case  
9 number: 2:14-cv-1973-JAM-DB.

10 DATED: May 15, 2017.

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12 EDMUND F. BRENNAN  
13 UNITED STATES MAGISTRATE JUDGE  
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