

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SHONDEL LARKIN,

No. 2:14-cv-2508-EFB P

Petitioner,

ORDER

D. DAVEY,

Respondent.

Petitioner is a state prisoner without counsel seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On October 24, 2014, he filed a petition for writ of habeas corpus in this court. *See Larkin v. Davey*, No. 2:14-cv-2497-TLN-GGH (E.D. Cal.), ECF No. 1. The petition challenges a disciplinary conviction arising out of a May 2, 2013 rules violation report. On January 20, 2015, respondent filed an answer and on February 20, 2015, petitioner filed a traverse. That matter now stands submitted for decision by the court.

On October 27, 2014, petitioner commenced this action by filing a new petition for writ of habeas corpus. ECF No. 1. The petition also challenges the disciplinary conviction arising out of the May 2, 2013 rules violation report. “[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).

In this case, the petition filed in the first action has not been adjudicated. Therefore, the court will construe the instant petition as a motion to amend the previously-filed petition.

Accordingly, IT IS HEREBY ORDERED that:

1. The Clerk of the Court shall file the petition (ECF No. 1) in Case No. 2:14-cv-2497-TLN-GGH as a motion to amend;

2. The Clerk shall file a copy of this order in Case No. 2:14-cv-2497-TLN-GGH and close this case; and

3. Petitioner is instructed that all future pleadings should be identified by the case number: 2:14-cv-2497-TLN-GGH.

DATED: March 10, 2015.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE