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8 UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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11 SHONDEL LARKIN,

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

12 Petitioner,

13 v.

ORDER

14 D. DAVEY,

15 Respondent.  
16

17 Petitioner is a state prisoner without counsel seeking a writ of habeas corpus pursuant to  
18 28 U.S.C. § 2254. On October 24, 2014, he filed a petition for writ of habeas corpus in this court.  
19 *See Larkin v. Davey*, No. 2:14-cv-2497-TLN-GGH (E.D. Cal.), ECF No. 1. The petition  
20 challenges a disciplinary conviction arising out of a May 2, 2013 rules violation report. On  
21 January 20, 2015, respondent filed an answer and on February 20, 2015, petitioner filed a  
22 traverse. That matter now stands submitted for decision by the court.

23 On October 27, 2014, petitioner commenced this action by filing a new petition for writ of  
24 habeas corpus. ECF No. 1. The petition also challenges the disciplinary conviction arising out of  
25 the May 2, 2013 rules violation report. “[W]here a new pro se petition is filed before the  
26 adjudication of a prior petition is complete, the new petition should be construed as a motion to  
27 amend the pending petition rather than as a successive application.” *Woods v. Carey*, 525 F.3d  
28 886, 888-890 (9th Cir. 2008).

1 In this case, the petition filed in the first action has not been adjudicated. Therefore, the  
2 court will construe the instant petition 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-2497-  
5 TLN-GGH as a motion to amend;

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

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

10 DATED: March 10, 2015.



EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE