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8	UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
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11	NEAL O'NEILL,	No. 2:16-cv-0417 KJN P
12	Petitioner,	
13	V.	ORDER
14	STATE OF CALIFORNIA,	
15	Respondent.	
16	-	
17	On June 15, 2017, petitioner filed his third motion to reopen this case. Petitioner seeks to	
18	reopen this case for review of his substantive claims challenging his underlying conviction. (ECF	
19	No. 28 at 1.)	
20	This petition for writ of habeas corpus was dismissed on June 23, 2016. Petitioner filed	
21	an appeal, and the Court of Appeals for the Ninth Circuit denied petitioner's request for a	
22	certificate of appealability. (ECF No. 25.) On March 29, 2017, petitioner again moved to reopen	
23	this action, repeating his claim that the appeal pending in state court addresses pre-sentence	
24	credits and not his underlying conviction. (ECF No. 26 at 1-2.) However, as explained in the	
25	June 23, 2016 order, because petitioner's conviction and sentence were not yet final, this court	
26	was required to abstain from addressing any challenge thereto. (ECF No. 13 at 3-4.) As the	
27	Ninth Circuit also explained to petitioner, "[t]he denial of appellant's request for a certificate of	
28	appealability does not preclude him from challenging his state conviction, once final, in a	
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1	properly filed habeas petition brought pursuant to 28 U.S.C. § 2254." (ECF No. 25 at 1.) In other
2	words, petitioner must wait until the state court resolves petitioner's sentence and the sentence
3	becomes final before petitioner can seek habeas relief in federal court. At that time, petitioner
4	must file a <u>new</u> petition for writ of habeas corpus in this court.

It appears that petitioner now believes his pending appeal has been denied. However,
petitioner was previously advised that once his conviction is final, he must file a <u>new</u> petition for
writ of habeas corpus in federal court. This means he must file a new case. Petitioner is not
allowed to re-open this case. This case is closed and remains closed.

- Accordingly, IT IS HEREBY ORDERED that:

Petitioner's request to reopen this case (ECF No. 28) is denied. If petitioner wishes to
 challenge his conviction through a petition for writ of habeas corpus, he must file a new case.

12 2. The Clerk of the Court is directed to send petitioner the form for filing a petition for
13 writ of habeas corpus, along with an application to proceed in forma pauperis.

3. Petitioner shall file no further filings in this closed case. Any additional documents
filed by petitioner will be disregarded and no orders will issue in response to future filings.
Dated: June 21, 2017

KENDALL J. NEWMAN UNITED STATES MAGISTRATE JUDGE

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