# UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA 

JERRY LEE KING,
Petitioner,
v.

DAVE DAVEY,
Respondent.

No. 2:16-cv-1464-WBS-EFB P

## ORDER

Petitioner is a state prisoner without counsel seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pending before the court are petitioner's request for copies (ECF No. 70) and request for clarification (ECF No. 71). He has also filed a third amended petition (ECF No. 72).

Petitioner seeks copies of docket entries numbers sixty-seven and sixty-eight. Generally, the Clerk's Office will provide copies of documents at the cost of $\$ 0.50$ per page. Here, however, petitioner asserts that all of his property has been lost by the California Department of Corrections and Rehabilitation. ECF No. 70. Thus, in this one instance, the court will direct the Clerk of Court to mail petitioner copies of the foregoing documents as a one-time courtesy. He will be required to pay for any future copies he requests.

Petitioner also requests clarification of the status of his petition. ECF No. 71. He states that he does not understand either why his petition has been mooted or how to "fix" it. Id. He appears to be referring to the court's November 27, 2018 order wherein the court granted his
request for an extension of time to file an amended petition and denied as moot his redundant motion to amend. ECF No. 69. That order also directed plaintiff to file his amended petition within sixty days. Id. The current posture of the case is as follows:

- On February 10, 2017, it was recommended that respondent's motion to dismiss be granted and that the petition be dismissed with leave to amend so that petitioner could file a fully exhausted petition and seek a Kelly stay. ECF No. 35 .
- On March 27, 2017, those recommendations were adopted by the district judge. ECF No. 36.
- On March 31, 2017, petitioner filed an amended petition. ECF No. 38.
- On April 14, 2017, Petitioner filed a motion to stay. ECF No. 40.
- On July 12, 2017, it was recommended that the motion to stay be denied and the amended petition be dismissed with leave to amend due to its inclusion of unexhausted claims. ECF No. 50.
- On August 15, 2017, petitioner filed a second amended petition. ECF No. 51.
- On August 30, 2017, the aforementioned July recommendations were adopted by the district judge. ECF No. 52.
- On November 21, 2017, respondent filed an answer to the second amended petition. ECF No. 58.
- On January 2, 2019, petitioner filed a third amended petition, again including claims previously deemed unexhausted. ECF No. 72; see also ECF No 35.

Because petitioner's third amended petition is not limited to his exhausted claims, as directed by the court, it will be disregarded. Thus, based on the foregoing, the operative petition in this case is the second amended petition. ECF No. 52. That petition has not, contrary to petitioner's understanding, been mooted.

Accordingly, IT IS ORDERED that:

1. As a one-time courtesy, the Clerk of the Court shall mail petitioner copies of Docket Nos. 67 and 68;
2. Petitioner's third amended petition (ECF No. 72) is disregarded; and
3. The second amended petition (ECF No. 51) will remain operative and be deemed submitted.

DATED: February 4, 2019.


