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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT A. GIBBS,
Petitioner,
v.
SHASTA COUNTY,
Respondent.

No. 2:16-cv-1869 JAM KJN P

ORDER

Petitioner, a county inmate proceeding without counsel, has filed a petition for writ of habeas corpus pursuant 28 U.S.C. § 2254. Petitioner challenges proceedings in the Shasta County Superior Court, Case No. 15F5736, as they relate to charges against him for making criminal threats in violation of California Penal Code § 422. (See ECF No. 1 at 2-3.)

Court records reflect that petitioner is presently challenging the same proceedings in an earlier filed action, which remains pending. See Gibbs v. Attorney General of California, Case No. 2:16-cv-1629 JAM DB P. It is well established that if a new petition is filed when a previous habeas petition is still pending before the district court without a decision having been rendered, then the new petition should be construed as a motion to amend the pending petition. Woods v. Carey, 525 F.3d 886, 888 (9th Cir. 2008). Accordingly, the petition filed in the instant action, ECF No. 1, should be construed as a motion to amend the initial petition, and should be filed as such in Gibbs v. Attorney General of California, Case No. 2:16-cv-1629 JAM DB P. See Woods, 525 F.3d at 888.

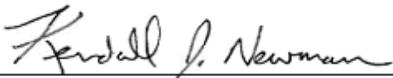
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In accordance with the above, IT IS HEREBY ORDERED that:

1. The August 8, 2016 habeas petition filed in the instant action (ECF No. 1) is construed as a motion to amend petitioner’s first-filed habeas petition in Gibbs v. Attorney General of California, Case No. 2:16-cv-1629 JAM DB P.

2. The Clerk of the Court is directed to file the habeas petition in this action (ECF No. 1) as a motion to amend in Gibbs v. Attorney General of California, Case No. 2:16-cv-1629 JAM DB P, and to terminate this action and all outstanding motions.

Dated: October 13, 2016


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

/gibb1869.woods.mta