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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

PATRICK D. KELLEY, JR.,
Petitioner,
v.
CDCR CSP/SAC, et al.,
Respondents.

No. 2:17-cv-0111 AC P

ORDER

Petitioner, a state prisoner proceeding pro se, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner has consented to the jurisdiction of the undersigned magistrate judge for all purposes pursuant to 28 U.S.C. § 636(c) and Local Rule 305(a). ECF No. 18.

By order filed June 22, 2017, petitioner’s habeas application was dismissed because he did not provide any information regarding the exhaustion of his state court remedies and even though he is determinately sentenced, it was not clear that the rules violation report he was attempting to challenge resulted in the loss of time credits. ECF No. 20. He was “advised that in order for the court to have habeas jurisdiction over his claim, success on the petition must necessarily result in petitioner’s speedier release,” and he was given thirty days to file an amended petition. Id. at 2 (citing Nettles v. Grounds, 830 F.3d 922, 934-35 (9th Cir. 2016) (en banc). After petitioner failed to file an amended petition, he was given additional time to comply with the court’s order. ECF

1 No. 21. He has now filed a document, captioned as an amended petition, which states that he will
2 be released on August 29, 2017, and that upon his release he will “be filing this complaint under a
3 civil suit.” ECF No. 22. He further states that he “do[es] not need an [sic] magistrate judge for
4 this case under an [sic] habeas corpus action.” Id. It appears that petitioner does not intend to file
5 an amended petition and instead wishes to pursue a civil rights claim after he is released from
6 prison.

7 Accordingly, IT IS HEREBY ORDERED that the amended petition is construed as a
8 notification of voluntary dismissal and this action is DISMISSED without prejudice.

9 DATED: August 24, 2017

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11 ALLISON CLAIRE
12 UNITED STATES MAGISTRATE JUDGE
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