## UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

WARREN CLEVELAND GREEN,
Petitioner,
v.

No. 2:17-cv-0461 JAM AC P
ORDER

CDCR, et al.,

Respondents.

By order and judgment filed May 8, 2017, this case was dismissed without prejudice based on petitioner's representation that he had intended to file his original document in this case in his previously-filed case, Green v. Martel et al., Case No. 2:17-cv-0429 JAM EFB P. The court directed the Clerk of Court to "file the opening document in this case, ECF No. 1, in Green v. Martel et al., Case No. 2:17-cv-0429 JAM EFB P, with a notation that it was originally filed on February 17, 2017, by application of the mailbox rule, and mistakenly designated as the commencement of the instant case." See ECF No. 8 at 2. This action was then closed.

Petitioner subsequently filed two additional documents. The first, ECF No. 10, asks whether this action should have been closed by the district judge, rather than the undersigned magistrate judge. The answer is no, because this case was improvidently opened and dismissed without prejudice as an administrative matter. The original document in this case remains before the court in petitioner's previously-filed case.

The second document, ECF No. 11, asks for a certificate of appealability. This request is denied because inapplicable to the circumstances of this case. A certificate of appealability may issue only "if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). There has been no consideration or denial of petitioner's constitutional rights in this case; moreover, petitioner never filed a cognizable petition for writ of habeas corpus under the instant case number.

Petitioner is informed that this court will not respond to any further documents filed in this case. Petitioner may continue to file documents in <u>Green v. Martel et al.</u>, Case No. 2:17-cv-0429 JAM EFB P, or any of his other active cases. Additionally, as petitioner notes, he may request the legal advice of his appointed counsel in <u>Green v. CDCR</u>, Case No. 2:14-cv-2854 TLN AC P.

For these reasons, IT IS HEREBY ORDERED that:

- 1. Petitioner's request for a certificate of appealability, ECF No. 11, is denied because inapplicable to the circumstances of this case.
  - 2. This case remains closed; the court will not respond to any filings in this case.
- 3. The Clerk of Court is directed to send petitioner, together with a copy of this order, copies of the dockets in the instant case and in <u>Green v. Martel et al.</u>, Case No. 2:17-cv-0429 JAM EFB P.

SO ORDERED.

**DATED:** June 7, 2017

ALLISON CLAIRE

UNITED STATES MAGISTRATE JUDGE