## 1 2 3 4 5 6 7 8 IN THE UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 TROY N. TOERPE, No. 2:18-CV-0093-TLN-DMC-P 12 Petitioner. 13 v. **ORDER** 14 BRIAN DUFFY, 15 Respondent. 16 Petitioner, a state prisoner proceeding with retained counsel, brings this petition 17 for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pending before the court is petitioner's 18 19 "Notice of Motion and Motion to Reopen Case – Error of Allowing Counsel for Respondent to 20 Move to Dismiss Case in Violation of Commanding U.S. Supreme Court Governing Decision" 21 (ECF No. 17). 22 At the outset, the court notes that petitioner does not seek any specific relief by way of the current motion. While petitioner states he would like the case re-opened, this request 23 24 is puzzling given that the case has not been closed. To the extent petitioner seeks to re-open briefing on respondent's motion to dismiss, which was submitted on the briefs without oral 25 26 argument following petitioner's failure to file a timely opposition, petitioner has not demonstrated 27 good cause for such relief by explaining why he was unable to file a timely opposition. Further, it

appears petitioner's motion is based on a misinterpretation of the court's prior order directing

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1	respondent to file a response to the petition. In his motion, petitioner's counsel states: "I believe
2	that this U.S. Magistrate Judge did not issue a specific order to counsel for the State of California
3	to reply specifically to the contents of the 28 U.S.C. 2254 petition " Contrary to counsel's
4	belief, on October 24, 2018, the undersigned issued an order directing respondent to respond to
5	the petition, allowing respondent to either file a responsive motion or an answer under Rule 5 of
6	the Federal Rules Governing Section 2254 Cases.
7	Accordingly, IT IS HEREBY ORDERED that petitioner's motion (ECF No. 17) is
8	denied.
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11	Dated: June 5, 2019
12	DENNIS M. COTA
13	UNITED STATES MAGISTRATE JUDGE
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