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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

ROBERT A. GIBBS,
Petitioner,
v.
TOM BOSENKO,
Respondent.

No. 2:18-CV-0859-MCE-DMC-P

ORDER

Petitioner, a state prisoner proceeding pro se, brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On June 19, 2018, the court issued findings and recommendations that this action be dismissed for failure to state a cognizable claim. See Doc. 6. On June 27, 2018, and June 28, 2018, Petitioner filed objections and requested the action be recharacterized as a civil rights action under 42 U.S.C. § 1983. See Docs. 7 and 8. In the interest of justice, and at the request of Petitioner, the June 19, 2018, findings and recommendations will be vacated and the action will be recharacterized as a civil rights case. See Nettles v. Grounds, 830 F.3d 922, 936 (9th Cir. 2016). Petitioner will be provided an opportunity to file a complaint stating all his claims as against all defendants in a single operative pleading. Petitioner is cautioned that failure to file a complaint within the time specified herein may result in dismissal of the entire action. See Local Rule 110.

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Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations issued on June 19, 2018, are hereby vacated;
2. This action is recharacterized as a prisoner civil rights action;
3. The Clerk of the Court is directed to update the docket to reflect this action proceeds as a prisoner civil rights action under 42 U.S.C. § 1983;
4. Petitioner shall file a complaint within 30 days of the date of this order; and
5. The Clerk of the Court is directed to forward to petitioner the court's form complaint for prisoner civil rights cases.

Dated: November 29, 2018



DENNIS M. COTA
UNITED STATES MAGISTRATE JUDGE