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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TOU CHRISTMAS THAO,

 Petitioner,

 v.

STU SHERMAN,

 Respondent.

No. 2:18-cv-3178 AC P

ORDER AND FINDINGS AND
RECOMMENDATIONS

Petitioner, a state prisoner proceeding pro se, seeks habeas relief pursuant to 28 U.S.C. § 2254 and has requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. ECF Nos. 6, 7. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

For the reasons stated herein, the Court will grant petitioner leave to proceed in forma pauperis. It will also recommend that this action be dismissed as duplicative of Thao v. Sherman, No. 2:17-cv-2396 MCE AC P (“Sherman I”).

I. IN FORMA PAUPERIS APPLICATION

Examination of the in forma pauperis application reveals that petitioner is unable to afford the costs of suit. See ECF Nos. 6, 7. Accordingly, the application to proceed in forma pauperis will be granted. See 28 U.S.C. § 1915(a).

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1 II. RECOMMENDATION TO DISMISS

2 In the instant petition, petitioner challenges his fifteen-year enhanced sentence for assault
3 with a firearm that was imposed in Sacramento County Superior Court Case No. 10F06846. See
4 ECF No. 1 at 2-3. A review of the Court's records¹ indicates that Sherman I is an earlier-filed
5 habeas petition pending in this Court, which contests the same sentence enhancement on the same
6 grounds. Compare ECF No. 1 at 1-3, with Sherman I, ECF No. 1 at 1-4. Because the instant
7 petition is a duplicate, the Court will recommend that it be dismissed as such.

8 Accordingly, IT IS HEREBY ORDERED that the Clerk of Court randomly assign a
9 District Court Judge to this action.

10 IT IS FURTHER RECOMMENDED that the petition (ECF No. 1) be DISMISSED as
11 duplicative of Thao v. Sherman, No. 2:17-cv-2396 MCE AC P.

12 These findings and recommendations are submitted to the United States District Judge
13 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
14 after being served with these findings and recommendations, petitioner may file written
15 objections with the Court. Such a document should be captioned "Objections to Magistrate
16 Judge's Findings and Recommendations." Petitioner is advised that failure to file objections
17 within the specified time may waive the right to appeal the District Court's order. Martinez v.
18 Ylst, 951 F.2d 1153 (9th Cir. 1991).

19 DATED: November 20, 2019

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21 ALLISON CLAIRE
22 UNITED STATES MAGISTRATE JUDGE
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27 ¹ A court may take judicial notice of its own records and the records of other courts. See United
28 States v. Howard, 381 F.3d 873, 876 n.1 (9th Cir. 2004); United States v. Wilson, 631 F.2d 118,
119 (9th Cir. 1980).