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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 HERIBERTO CASTRO-GUTIERREZ,

12 Plaintiff,

13 v.

14 DORIS L. SHOCKLEY,

15 Defendant.
16

No. 2:21-cv-01391 KJM DB P

ORDER

17 Plaintiff is a state prisoner who was proceeding pro se with a civil rights action under
18 42 U.S.C. § 1983. On October 24, 2021, plaintiff filed a petition for a writ of habeas corpus and a
19 motion to proceed in forma pauperis in this case.¹ However, in an order filed October 13, 2021,
20 the court dismissed this case. Plaintiff was advised that his claims should be brought, if at all, in
21 a petition for a writ of habeas corpus under 28 U.S.C. § 2254. Because the court closed the
22 present case, plaintiff must file a new action.

23 Accordingly, the Clerk of the Court is directed to open a new case, assign the present
24 district and magistrate judges to that case, and transfer plaintiff's October 24 habeas petition and
25 motion to proceed in forma pauperis to that new case.

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28 ¹ Under the "mailbox rule," the court considers the date a prisoner turns over his filing to prison
authorities for mailing as the filing date. *See Houston v. Lack*, 487 U.S. 266, 270 (1988).

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IT IS SO ORDERED.

DATED: November 16, 2021.


CHIEF UNITED STATES DISTRICT JUDGE