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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JASON RODNEY LENEY,
Petitioner,
v.
BUTTE COUNTY JAIL,
Respondent.

No. 2:24-cv-2650 CSK P

ORDER

Petitioner, a state prisoner proceeding pro se, filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, together with a request to proceed in forma pauperis.

Examination of the in forma pauperis affidavit reveals that petitioner is unable to afford the costs of suit. Accordingly, the request for leave to proceed in forma pauperis is granted. See 28 U.S.C. § 1915(a).

Petitioner’s 27 page petition was filed with the Court on September 30, 2024, and challenges his December 23, 2023 conviction. (ECF No. 1.) The Court’s own records reveal that on September 16, 2024, petitioner filed a six page petition challenging the same December 23, 2023 conviction. (Case No. 2:24-cv-2509 CSK P.).¹ Petitioner appears to raise the same four grounds against the same respondents in both petitions but adds facts and exhibits to the later-

¹ A court may take judicial notice of court records. See MGIC Indem. Co. v. Weisman, 803 F.2d 500, 505 (9th Cir. 1986); United States v. Wilson, 631 F.2d 118, 119 (9th Cir. 1980).

1 filed petition. In addition, petitioner has been filing documents in the later action, including a
2 notice of change of address. On the other hand, in his earlier action, Case No. 2:24-cv-2509 CSK
3 P, petitioner's mail was returned on September 30, 2024, and petitioner has filed nothing in his
4 first case since he filed the original petition and request to proceed in forma pauperis.

5 Comparison of the two petitions demonstrates that the subsequently filed petition should
6 be construed as an amended petition and filed in the earlier action. Because of such construction,
7 the Clerk of the Court is directed to file the petition in his earlier action, Case No. 2:24-cv-2509
8 CSK P, as an amended petition, along with petitioner's subsequent filings in this action, Case No.
9 2:24-cv-2650 CSK P: ECF Nos. 5, 6, 7, 8, 9, and 10. Petitioner is informed that his case will
10 proceed in Case No. 2:24-cv-2509 CSK P, and all future filings should bear Case No. 2:24-cv-
11 2509 CSK P. Because the instant action was improvidently opened as a new action, rather than as
12 petitioner's amendment in his earlier habeas action, the Clerk of the Court is directed to terminate
13 this action.

14 Accordingly, IT IS HEREBY ORDERED that:

- 15 1. Petitioner's request to proceed in forma pauperis (ECF No. 2) is granted.
- 16 2. The Clerk of the Court is directed to file the September 30, 2024 petition as an
17 amended petition in petitioner's earlier habeas action, Case No. 2:24-cv-2509 CSK P.
- 18 3. The Clerk of the Court is directed to file petitioner's subsequent filings in Case No.
19 2:24-cv-2650 CSK P (ECF Nos. 5, 6, 7, 8, 9, and 10) in his earlier habeas action, Case
20 No. 2:24-cv-2509 CSK P.
- 21 4. All future filings shall bear Case No. 2:24-cv-2509 CSK P.
- 22 5. The Clerk of the Court is directed to terminate this action.

23
24 Dated: November 25, 2024

25 
26 CHI SOO KIM
27 UNITED STATES MAGISTRATE JUDGE

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