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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JAMES EDWARD KING,
Petitioner,

No. C 00-1988 SI (pr)

ORDER

v.

MICHAEL S. EVANS, warden,
Respondent.

The petition for writ of habeas corpus was granted and judgment was entered in this action on April 14, 2009. Thereafter, petitioner apparently was tried and convicted again. His direct appeal is now pending in the California Court of Appeal, *People v. King*, Cal. Ct. App. Case No. H036078.

The court has received from petitioner a letter dated April 3, 2013, with some miscellaneous attachments. (Docket # 142.) The letter came to the court in an envelope addressed to "Federal Appeal Attorney Office, U.S. District Court." In his letter, petitioner wrote that "there are a total of 11 issues in my appeal" and asked that "when the state appeals court denied (sic) my appeal, can you please represent me in federal court." *Id.*

If petitioner wishes to challenge in federal court the conviction that occurred at his retrial, he must file a new petition for writ of habeas corpus to do so. A new case will be opened with a new case number when he files that new petition. He should *not* use the case number for this case, because this case is now closed.

1 Due to his appeal pending in state court, it is too early for him to file a federal habeas
2 petition. A prisoner in state custody who wishes to challenge collaterally in federal habeas
3 proceedings either the fact or length of his confinement must first exhaust state judicial
4 remedies, either on direct appeal or through collateral proceedings, by presenting the highest
5 state court available with a fair opportunity to rule on the merits of each and every claim he
6 seeks to raise in federal court. *See* 28 U.S.C. § 2254(b),(c); *Rose v. Lundy*, 455 U.S. 509, 515-16
7 (1982). Petitioner may file a new petition for writ of habeas corpus after he exhausts state court
8 remedies as to each claim contained in his new petition.

9 Petitioner's request for appointment of counsel to represent him in federal habeas
10 proceedings is DENIED. (Docket # 142.) The request is extremely premature. There is no
11 "federal appeal attorney office," and it is for the court to decide whether to appoint counsel to
12 represent an indigent habeas petitioner in federal court. However, the court will not consider
13 appointing counsel until there is a federal habeas petition on file. Once petitioner exhausts his
14 state court remedies, and files a new federal habeas petition to challenge his conviction upon
15 retrial, he may file a request for appointment of counsel.

16 Petitioner should not file any more documents in this action because it is closed.

17 The clerk will mail a copy of this order to petitioner as well as to the attorneys of record.
18 Petitioner's address is: James E. King, CDCR # J74101, Pleasant Valley State Prison, P.O. Box
19 8500, Coalinga, CA 93210.

20 IT IS SO ORDERED.

21 DATED: April 15, 2013



SUSAN ILLSTON
United States District Judge

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