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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CLINTON BRIAN WILSON, )  
 )  
Petitioner, )  
 )  
v. )  
 )  
JAMES E. TILTON, Secretary of )  
Department of Corrections, )  
 )  
Respondent. )  
\_\_\_\_\_ )

No. C 09-0143 MMC (PR)  
**ORDER GRANTING MOTION TO REINSTATE ORDER TO LIFT STAY; DIRECTING CLERK TO ADMINISTRATIVELY REOPEN ACTION; DIRECTING PETITIONER TO FILE AMENDED PETITION**  
**(Docket No. 24)**

On January 13, 2009, petitioner, a California prisoner proceeding pro se, filed the above-titled petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Thereafter, the Court stayed the petition and administratively closed the case while petitioner returned to state court to exhaust state remedies. By order filed October 22, 2010, the Court granted petitioner’s request to reopen the case and file an amended petition. In so doing, the Court directed petitioner to file his amended petition within thirty days of the date the Court’s order was filed.

On December 17, 2010, the Court dismissed the instant action without prejudice due to petitioner’s failure to file an amended petition or otherwise communicate with the Court within thirty days of the Court’s October 22, 2010 order.

Now before the Court is petitioner’s motion, filed February 4, 2011, to reinstate the Court’s October 22, 2010 order lifting the stay. Petitioner also renews his request for leave to file an amended petition. Petitioner states he was unable to file an amended petition or otherwise communicate with the Court within thirty days of the Court’s October 22, 2010

United States District Court  
For the Northern District of California

1 order because he did not receive the order until November 22, 2010, and that shortly thereafter,  
2 on December 1, 2010, petitioner's legal files were "pre-transfer transpacked" in preparation for  
3 petitioner's transfer to Pleasant Valley State Prison ("PVSP"). Petitioner states he was  
4 transferred to PVSP on December 6, 2010 and was separated from his property until  
5 approximately January 4, 2010.

6 Good cause appearing, the Court orders as follows:

7 1. Petitioner's request to reopen the instant action is hereby GRANTED, and the Clerk  
8 is directed to ADMINISTRATIVELY REOPEN the instant action .

9 2. Within **thirty (30)** days of the date this order is filed, petitioner shall file an amended  
10 petition, using the Court's form petition, containing all of his exhausted claims. A copy of the  
11 form petition along with instructions for completing it are provided to petitioner herewith. The  
12 amended petition must include the caption and civil case number used in this order, No. C 09-  
13 0143 MMC (PR), and must include the words AMENDED PETITION on the first page.

14 **The amended petition supersedes the initial petition and may not incorporate any**  
15 **part of it by reference. Petitioner must include in the amended petition all the claims he**  
16 **wishes to present, and any attachments he wishes the Court to consider.**

17 3. The Clerk is directed to mail a copy of this order to petitioner at his most recent  
18 address of record at PVSP.

19 4. It is petitioner's responsibility to prosecute this case. Petitioner must keep the Court  
20 informed of any change of address and must comply with the Court's orders in a timely  
21 fashion. Failure to do so may result in the dismissal of this action for failure to prosecute  
22 pursuant to Federal Rule of Civil Procedure 41(b).

23 This order terminates Docket No. 24.

24 IT IS SO ORDERED.

25 DATED: May 20, 2011

26   
27 MAXINE M. CHESNEY  
28 United States District Judge