

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KENNY M. BROWN,
Petitioner,

v.

DAVID BAUGHMAN,
Respondent.

Case No. [17-cv-01409-JCS](#) (PR)

ORDER REOPENING ACTION;

**ORDER DISMISSING PETITION WITH
LEAVE TO AMEND**

This federal habeas corpus action is REOPENED. The Clerk shall amend the docket accordingly. The judgment (Dkt. No. 24) and the order of dismissal (Dkt. No. 23) are VACATED. The current petition is DISMISSED with leave to file an amended petition on or before **December 11, 2017**. As discussed in prior orders, the new petition shall address the legality and duration of his confinement that was subsequent to his 2004 state convictions.

The amended petition must include the caption and civil case number used in this order (17-01409 JCS (PR)) and the words SEVENTH AMENDED PETITION on the first page. Because an amended petition completely replaces the previous petition, petitioner must include in his amended petition all the claims he wishes to present. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992). He may not incorporate material from a prior petition by reference. Any claims not raised in the amended petition will be deemed waived. Failure to file an amended petition in accordance with this order will result in dismissal of this action without further notice to petitioner.

IT IS SO ORDERED.

Dated: October 25, 2017


JOSEPH C. SPERO
Chief Magistrate Judge

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KENNY M. BROWN,
Plaintiff,
v.
DAVID BAUGHMAN,
Defendant.

Case No. [17-cv-01409-JCS](#)

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on October 25, 2017, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Kenny M. Brown ID: V22473
California Men's Colony State Prison (Cell # 5124)
P.O. Box 8101
San Luis Obispo, CA 93409-8101

Dated: October 25, 2017

Susan Y. Soong
Clerk, United States District Court

By: Karen L. Hom
Karen Hom, Deputy Clerk to the
Honorable JOSEPH C. SPERO