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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

RYKER WILLIAM SCHENCK,

No. C 12-4422 CW (PR)

Petitioner,

ORDER OF DISMISSAL

v.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN; KIM TURNER,
CHIEF EXECUTIVE OFFICER,Respondents.

The present action was opened when Plaintiff, a prisoner incarcerated at San Quentin State Prison and proceeding pro se, sent to the Court a document titled "Petition for Writ of Judicial Mandate Compelling the Filing of a Notice of Appeal and Related Papers." Docket no. 1. The caption of the petition bears a Marin County Superior Court case number, and identifies the State court of appeal as the presiding court.

In the petition, Plaintiff claims that the Marin County Superior Court wrongly dismissed his civil action and has refused to process his notice of appeal. He seeks a writ of mandamus from the California Court of Appeal directing the superior court to file his notice of appeal.

Based on the above, the Court concludes that Plaintiff erroneously sent the petition to this Court.¹ Accordingly, this

¹Moreover, federal district courts are without jurisdiction to issue mandamus to direct state courts in the performance of their duties; thus, an action brought to compel a state court to take or refrain from some action is frivolous as a matter of law. Demos v. United States District Court, 925 F.2d 1160, 1161-62 (9th Cir. 1991).

1 case is DISMISSED as opened in error, and no filing fee is due.

2 The Clerk of the Court shall close the file.

3 IT IS SO ORDERED.

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Dated: 8/31/2012

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CLAUDIA WILKEN

UNITED STATES DISTRICT JUDGE

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