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28UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIADAVID N. OSOLINSKI,  
Petitioner,  
v.  
COUNTY OF SONOMA, et al.,  
Respondents.

Case No. 17-02689 EJD (PR)

**ORDER GRANTING MOTION TO  
REINSTATE CASE; VACATING  
ORDER OF DISMISSAL AND  
JUDGMENT; REOPENING CASE**

(Docket No. 13)

Petitioner, a state prisoner, filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On September 26, 2017, the Court dismissed the petition with leave to amend to provide information regarding the exhaustion of state judicial remedies. (Docket No. 10.) Petitioner was given twenty-eight days from the date the order was filed to file an amended petition. (Id.) Because the deadline passed without any response from Petitioner, the Court dismissed the instant action on October 31, 2017, for failure to file an amended petition. (Docket No. 11.)

Petitioner has filed a request to vacate order the dismissal and judgment, which the Court construes as a request to reinstate this action. (Docket No. 13.) Petitioner asserts that he never received the Court's order of dismissal with leave to amend, and that if he had, he would have immediately prepared and filed an amended petition. (Id. at 2.)

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Accordingly, in the interest of justice, Petitioner’s motion to vacate the dismissal and reinstate this action is **GRANTED**.

**CONCLUSION**

For the foregoing reasons, the Court orders as follows:

1. The Clerk is ordered to vacate the October 31, 2017 Order of Dismissal and Judgment, (Docket Nos. 11 and 12), and reopen this case.
2. Petitioner shall file an amended petition using the court’s form petition, and provide therein information regarding the exhaustion of state judicial remedies. If Petitioner has not exhausted state judicial remedies, the petition must be dismissed for failure to exhaust. The amended petition shall be filed **no later than twenty-eight (28) days** from the date this order is filed.

The Clerk shall include two copies of the court’s form petition, a copy of the Court’s order filed on September 26, 2017, (Docket No. 10), with a copy of this order to Petitioner.

**IT IS SO ORDERED.**

Dated: 1/11/2018



EDWARD J. DAVILA  
United States District Judge