

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUN 17 2022

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

ANTHONY DEWAYNE LEE TURNER,

Plaintiff-Appellant,

v.

PATRICK COVELLO,

Respondent-Appellee.

No. 22-15767

D.C. No.

2:21-cv-01328-TLN-DMC

Eastern District of California,
Sacramento

ORDER

Before: OWENS, LEE, and BUMATAY, Circuit Judges.

A review of the record demonstrates that this court lacks jurisdiction over this appeal because the orders challenged in the appeal are not final or appealable. *See WMX Techs., Inc. v. Miller*, 104 F.3d 1133, 1136 (9th Cir. 1997) (dismissal of complaint with leave to amend is not appealable); *Branson v. City of Los Angeles*, 912 F.2d 334, 336 (9th Cir. 1990) (denial of reconsideration of non-appealable order is itself not appealable). Consequently, this appeal is dismissed for lack of jurisdiction.

All pending motions are denied as moot.

DISMISSED.

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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 ANTHONY DEWAYNE LEE TURNER,

12 Petitioner,

13 v.

14 PATRICK COVELLO,

15 Respondent.
16

No. 2:21-CV-1328-JAM-DMC-P

ORDER

17 Petitioner, a state prisoner proceeding pro se, brings this petition for a writ of
18 habeas corpus pursuant to 28 U.S.C. § 2254. Pending before the Court is Petitioner's motion,
19 ECF No. 12, for reconsideration of the Magistrate Judge's August 9, 2021, order at ECF No. 7.
20 Pursuant to Eastern District of California Local Rule 303(f), a Magistrate Judge's order shall be
21 upheld unless "clearly erroneous or contrary to law." Upon review of the entire file, the Court
22 finds that it does not appear that the Magistrate Judge's ruling was clearly erroneous or contrary
23 to law. The August 9, 2021, order is, therefore, affirmed.

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Accordingly, IT IS HEREBY ORDERED that:

1. The motion for reconsideration, ECF No. 12, is denied;
2. The Magistrate Judge's August 9, 2021, order is affirmed; and
3. No further motions for reconsideration of this order will be considered.

DATED: March 29, 2022

/s/ John A. Mendez

THE HONORABLE JOHN A. MENDEZ
UNITED STATES DISTRICT COURT JUDGE

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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 ANTHONY DEWAYNE LEE TURNER,

12 Petitioner,

13 v.

14 UNKNOWN,

15 Respondent.
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No. 2:21-CV-1328-DMC-P

ORDER

17 Petitioner, a state prisoner proceeding pro se, brings this petition for a writ of
18 habeas corpus pursuant to 28 U.S.C. § 2254. Pending before the Court is Petitioner's petition,
19 ECF No. 1. "A petitioner for habeas corpus relief must name the state officer having custody of
20 him or her as the respondent to the petition." Stanley v. California Supreme Court, 21 F.3d 359,
21 360 (9th Cir. 1994); see also Rule 2(a), Federal Rules Governing Section 2254 Cases. Because
22 Petitioner has not named the appropriate state officer, Petitioner will be provided leave to amend
23 to correct this technical defect by naming the correct respondent. See Stanley, 21 F.3d at 360.
24 Petitioner is warned that failure to comply with this order may result in the dismissal of this
25 action. See Local Rule 110.

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Accordingly, IT IS HEREBY ORDERED that:

1. Petitioner's petition for writ of habeas corpus, ECF No. 1, is dismissed with leave to amend;
2. Petitioner shall file an amended petition on the form employed by this court, and which names the proper respondent and states all claims and requests for relief, within 30 days of the date of this order; and
3. The Clerk of the Court is directed to send Petitioner the Court's form habeas corpus application.

Dated: August 9, 2021



DENNIS M. COTA
UNITED STATES MAGISTRATE JUDGE