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7 UNITED STATES DISTRICT COURT
8 CENTRAL DISTRICT OF CALIFORNIA
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11 RUCHELL MAGEE, aka) Case No. CV 09-5784-ABC(RC)
12 RUCHELL CINQUE MAGEE,)
13)
14) Petitioner,) OPINION AND ORDER ON A
15) STATE HABEAS CORPUS PETITION
16 vs.)
17)
18 K. CLARK, WARDEN,)
19)
20) Respondent.)
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18 This Court, pursuant to Federal Rule of Evidence 201, takes
19 judicial notice that on March 3, 1999, in Magee v. Ayers, case no.
20 CV99-0205-ABC(RC), District Judge Audrey B. Collins ordered that
21 petitioner Ruchell Magee, aka Ruchell Cinque Magee, be declared a
22 vexatious litigant under then-Local Rule 27A, **and** directed the Clerk
23 of Court to not accept for filing any habeas corpus petition without
24 payment of a filing fee and the prior written authorization from a
25 District Judge or Magistrate Judge issued upon a showing of evidence
26 supporting a claim, because petitioner had, between 1969 and 1999,
27 filed **thirty-five** federal habeas corpus petitions challenging his 1965
28 conviction and sentence for kidnapping and robbery in Los Angeles

1 County Superior Court case no. 272227. Since being declared a
2 vexatious litigant in this district court, petitioner has filed at
3 least three habeas corpus petitions in other district courts
4 challenging his 1965 conviction and sentence in Los Angeles County
5 Superior Court case no. 272227, in a blatant attempt to avoid the
6 Order of this Court declaring him a vexatious litigant and requiring
7 approval of any habeas filing by petitioner. Most recently, on
8 July 30, 2009, petitioner filed in the United States District Court
9 for the Eastern District of California his thirty-ninth habeas corpus
10 petition challenging his 1965 conviction and sentence in Los Angeles
11 County Superior Court case no. 272227, and that action was transferred
12 to this district court on August 7, 2009. In short, for 40 years now
13 petitioner has been abusing the writ with his numerous habeas corpus
14 filings in this and other district courts.

15
16 This Court finds that the instant petition, was filed without the
17 approval of a District Judge or Magistrate Judge of this district
18 court contrary to this Court's Order of March 3, 1999, and it is yet
19 another abusive and successive petition challenging petitioner's 1965
20 conviction and sentence in Los Angeles County Superior Court case no.
21 272227, which petitioner has not received permission from the Ninth
22 Circuit Court of Appeals to file. See 28 U.S.C. § 2244(b)(3)(A)
23 (holding before second or successive application is filed in district
24 court, "the applicant shall move in the appropriate court of appeals
25 for an order authorizing the district court to consider the
26 application").

27 Rule 4 of the Rules Governing Section 2254 Cases in the United
28 States Courts provides that "[i]f it plainly appears from the petition

1 and any attached exhibits that the petitioner is not entitled to
2 relief in the district court, the judge must dismiss the petition and
3 direct the clerk to notify petitioner." Here, no District Judge or
4 Magistrate Judge approved the filing of petitioner's pending habeas
5 corpus petition, as required by the Order of March 3, 1999, and the
6 petition is abusive and successive; thus, the petition should be
7 summarily dismissed under Rule 4 and Local Rule 72-3.2.

8 **ORDER**

9 IT IS HEREBY ORDERED that Judgment be entered SUMMARILY
10 DISMISSING the petition for writ of habeas corpus of vexatious
11 litigant Ruchell Magee, aka Ruchell Cinque Magee, which was filed
12 without the prior written approval of a District Judge or Magistrate
13 Judge of this district court, as required under the Order dated
14 March 3, 1999.

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16 IT IS FURTHER ORDERED that Judgment be entered summarily
17 dismissing the habeas corpus petition as a successive and abusive
18 petition, which this Court lacks subject matter jurisdiction to
19 consider.

20 The Clerk shall notify petitioner of the Judgment.

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23 DATE: August 11, 2009

AUDREY B. COLLINS
CHIEF UNITED STATES DISTRICT JUDGE

24 PRESENTED BY:

25 DATE: August 11, 2009

26 /S/ ROSALYN M. CHAPMAN
ROSALYN M. CHAPMAN
27 UNITED STATES MAGISTRATE JUDGE

R&R-MDO\09-5784.MDO - 8/11/09