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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

BRUCE CAROL WELLS, JR.,)	NO. CV 14-3213-DDP (E)
)	
Petitioner,)	
)	
v.)	ORDER OF DISMISSAL
)	
AMY MILLER, Warden, et al.,)	
)	
Respondents.)	
_____)	

On April 14, 2014, Petitioner filed a "Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2254 by a Person in State Custody" ("the Petition") in the United States District Court for the Southern District of California. By Order filed April 18, 2014, the Southern District transferred the Petition to the Central District of California.

The Petition challenges Petitioner's conviction and sentence in Los Angeles Superior Court case number MA 013226 for infliction of corporal injury on a spouse or cohabitant and mayhem (Petition at 1-2). Petitioner previously challenged this same conviction in a prior

1 habeas corpus petition filed in this Court. See Wells v. Small, CV
2 00-2051-DDP(E). On August 29, 2000, this Court entered Judgment in
3 Wells v. Small, CV 00-2051-DDP(E), denying and dismissing the prior
4 petition on the merits with prejudice.

5
6 The Court must dismiss the present Petition in accordance with
7 28 U.S.C. section 2244(b) (as amended by the "Antiterrorism and
8 Effective Death Penalty Act of 1996"). Section 2244(b) requires that
9 a petitioner seeking to file a "second or successive" habeas petition
10 first obtain authorization from the Court of Appeals. See Burton v.
11 Stewart, 549 U.S. 147, 157 (2007) (where petitioner did not receive
12 authorization from Court of Appeals before filing second or successive
13 petition, "the District Court was without jurisdiction to entertain
14 [the petition]"); Barapind v. Reno, 225 F.3d 1100, 1111 (9th Cir.
15 2000) ("the prior-appellate-review mechanism set forth in § 2244(b)
16 requires the permission of the court of appeals before 'a second or
17 successive habeas application under § 2254' may be commenced"). A
18 petition need not be repetitive to be "second or successive," within
19 the meaning of 28 U.S.C. section 2244(b). See, e.g., Thompson v.
20 Calderon, 151 F.3d 918, 920-21 (9th Cir.), cert. denied, 524 U.S. 965
21 (1998); Calbert v. Marshall, 2008 WL 649798, at *2-4 (C.D. Cal.
22 Mar. 6, 2008). Petitioner evidently has not yet obtained
23 authorization from the Ninth Circuit Court of Appeals (see Petition,

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1 p. 5).¹ Consequently, this Court cannot entertain the present
2 Petition. See Burton v. Stewart, 549 U.S. at 157; Remsen v. Att’y
3 Gen. of Calif., 471 Fed. App’x 571, 571 (9th Cir. 2012) (if a
4 petitioner fails to obtain authorization from the Court of Appeals to
5 file a second or successive petition, “the district court lacks
6 jurisdiction to consider the petition and should dismiss it.”)
7 (citation omitted).

8
9 For all of the foregoing reasons, the Petition is denied and
10 dismissed without prejudice.

11
12 LET JUDGMENT BE ENTERED ACCORDINGLY.

13
14 DATED: May 14, 2014.

15 

16
17 DEAN D. PREGERSON
UNITED STATES DISTRICT JUDGE

18 PRESENTED this 29th day of
19 April, 2014, by:

20
21 _____/s/_____
22 CHARLES F. EICK
UNITED STATES MAGISTRATE JUDGE

23
24 _____
25 ¹ The Court takes judicial notice of the docket of the
26 United States Court of Appeals for the Ninth Circuit, available
27 on the PACER database. See Mir v. Little Company of Mary Hosp.,
28 844 F.2d 646, 649 (9th Cir. 1988) (court may take judicial notice
of court records). The Ninth Circuit’s docket does not show that
any individual named Bruce Wells has obtained any order from the
Ninth Circuit permitting the filing of a second or successive
habeas petition in this Court.