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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JAMES COMPTON,
Petitioner,

v.

STU SHERMAN, Warden,
Respondent.

NO. CV 14-7397-GAF (AGR)

OPINION AND ORDER ON
PETITION FOR WRIT OF
HABEAS CORPUS

On September 22, 2014, Petitioner filed a Petition for Writ of Habeas Corpus by a Person in State Custody ("Petition") pursuant to 28 U.S.C. § 2254. Petitioner challenges his conviction in Los Angeles County Superior Court on July 1, 1999. (Petition at 2.)

I.

PROCEDURAL BACKGROUND

Pursuant to Fed. R. Evid. 201, the Court takes judicial notice of the records in Petitioner's prior federal habeas corpus action in the Central District of California, *Compton v. Warden*, Case No. CV 02-9655-GAF (RC) ("*Compton I*").

1 On July 1, 1999, Petitioner was convicted of two counts of attempted,
2 premeditated murder and two accounts of assault with a firearm. (Petition at 2).
3 On August 16, 1999, he was sentenced to two life sentences. (*Id.*)

4 In *Compton I*, Petitioner challenged the same conviction. Dkt. No. 25 at 1-
5 2. A Report issued on the merits on October 21, 2003. The Report
6 recommended that the petition be denied and the action dismissed with prejudice.
7 *Id.* at 16. On November 20, 2003, the Court adopted the Report and entered
8 judgment dismissing the petition with prejudice. *Id.*, Dkt. Nos. 26-27. On
9 December 23, 2003, Petitioner filed a notice of appeal. *Id.*, Dkt. No. 28. On
10 March 15, 2004, the Ninth Circuit denied the request for a certificate of
11 appealability. *Id.*, Dkt. No. 33.

12 II.

13 DISCUSSION

14 The Petition was filed after enactment of the Antiterrorism and Effective
15 Death Penalty Act of 1996 (“AEDPA”). Therefore, the Court applies the AEDPA
16 in reviewing the Petition. *Lindh v. Murphy*, 521 U.S. 320, 336, 117 S. Ct. 2059,
17 138 L. Ed. 2d 481 (1997).

18 The AEDPA provides, in pertinent part: “Before a second or successive
19 application permitted by this section is filed in the district court, the applicant shall
20 move in the appropriate court of appeals for an order authorizing the district court
21 to consider the application.” 28 U.S.C. § 2244(b)(3)(A). A district court does not
22 have jurisdiction to consider a “second or successive” petition absent
23 authorization from the Ninth Circuit. *Burton v. Stewart*, 549 U.S. 147, 152, 127 S.
24 Ct. 793, 166 L. Ed. 2d 628 (2007); *Cooper v. Calderon*, 274 F.3d 1270, 1274 (9th
25 Cir. 2001) (“When the AEDPA is in play, the district court may not, in the absence
26 of proper authorization from the court of appeals, consider a second or
27 successive habeas application.”) (citation and quotation marks omitted).

1 Here, the Petition is a second or successive petition challenging the same
2 conviction and sentence imposed by the same judgment of the state court as in
3 *Compton I.*

4 Rule 4 of the Rules Governing Section 2254 Cases in the United States
5 Courts provides that “[i]f it plainly appears from the face of the petition and any
6 attached exhibits that the petitioner is not entitled to relief in the district court, the
7 judge must dismiss the petition and direct the clerk to notify the petitioner.” Here,
8 summary dismissal is warranted.

9 **III.**

10 **ORDER**

11 IT IS HEREBY ORDERED that Judgment be entered summarily dismissing
12 the Petition and action for lack of subject matter jurisdiction. All pending motions
13 are DENIED.

14 

15 DATED: September 28, 2014

16 _____
17 GARY A. FEESS
18 United States District Judge