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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

JOSE M. REYES,) Case No. CV 16-6146-CBM(AJW)
)
Petitioner,) MEMORANDUM AND ORDER
) DISMISSING PETITION
v.)
)
DEAN BORDERS,)
)
Respondent.)

In 1989, petitioner was convicted and sentenced in the Los Angeles Superior Court. [Petition at 2].

On April 18, 1995, petitioner filed a petition for a writ of habeas corpus in this Court challenging his 1989 conviction. Case No. CV 95-2532-CBM(CT). That petition was denied on the merits. On September 26, 2005, petitioner filed a second habeas corpus petition in this Court, which was denied as successive. Case No. CV 05-6970-CBM(CT). The Ninth Circuit subsequently denied petitioner's request for leave to file a successive petition.

Petitioner filed the current petition for a writ of habeas corpus on August 16, 2016. The petition again challenges petitioner's 1989 conviction.

1 "Before a second or successive application permitted by this
2 section is filed in the district court, the applicant shall move in the
3 appropriate court of appeals for an order authorizing the district
4 court to consider the application." 28 U.S.C. § 2244(b)(3)(A). Absent
5 authorization from the Court of Appeals, this Court lacks jurisdiction
6 over a successive petition. See Magwood v. Patterson, 561 U.S. 320,
7 330-331 (2010); Cooper v. Calderon, 274 F.3d 1270, 1274 (9th Cir.
8 2001), cert. denied, 538 U.S. 984 (2003). Because petitioner has not
9 obtained leave from the Court of Appeals, this successive petition is
10 dismissed for lack of jurisdiction.¹

11 **It is so ordered.**

12 Dated: JANUARY 26, 2017



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14 Consuelo B. Marshall
United States District Judge

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24 ¹ Ni-th Circuit Rule No. 22-3(a) provides that "[i]f a seco-d or
25 successive petitio- or motio-, or a- applicatio- for authorizatio- to
26 file such a petitio- or motio-, is mistake-ly submitted to the district
27 court, the district court shall refer it to the court of appeals."
28 Because the circumsta-ces i-dicate that petitio-er i-te-tio-ally filed
this actio- i- this Court, -ot that he did so mistake-ly, Rule 22-3(a)
is i-applicable. Nevertheless, the Clerk is directed to mail petitio-er
a copy of Ni-th Circuit Form 12 so that petitio-er may file a-
applicatio- for leave to file a seco-d or successive petitio- i- the
Court of Appeals.