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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MELVIN OSHA JONES,
Petitioner,
v.
C. PFEIFFER, Warden,
Respondent.

NO. CV 17-3471-FMO (AGR)

OPINION AND ORDER ON
PETITION FOR WRIT OF
HABEAS CORPUS
(SUCCESSIVE PETITION)

On May 8, 2017, Petitioner, a state inmate, filed a Petition for Writ of Habeas Corpus challenging his 2002 conviction of kidnapping for purposes of robbery. Because he previously challenged the same state court judgment in a habeas action that the Court dismissed with prejudice, and because he lacks Ninth Circuit authorization to file a successive petition, the Court lacks jurisdiction over the new petition.

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.

1 In 2006, Petitioner filed a habeas petition in this court in *Jones v. Horel*,
2 No. CV 06-3988-ABC (AGR) ("*Jones I*"). His claims were (1) insufficiency of the
3 evidence; (2) vindictive prosecution; and (3) ineffective assistance of counsel.
4 (*See Jones I*, Dkt. No. 22 (Notice and R&R) at 4.)

5 On August 3, 2007, the Court accepted the Magistrate Judge's
6 recommendation and entered Judgment dismissing *Jones I* with prejudice on the
7 merits. (*See Jones I*, Dkt. Nos. 27-28.) The Court denied a certificate of
8 appealability. (*Jones I*, Dkt. No. 31.) On November 2, 2007, the Ninth Circuit
9 denied a certificate of appealability in its case number 07-56421. (*Jones I* Dkt.
10 No. 35.)

11 II.

12 DISCUSSION

13 The Petition was filed after enactment of the Antiterrorism and Effective
14 Death Penalty Act of 1996 ("AEDPA"). Therefore, the Court applies the AEDPA
15 in reviewing the Petition. *Lindh v. Murphy*, 521 U.S. 320, 336 (1997).

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

26 Here, the Petition is a second or successive petition challenging the same
27 state court judgment that he challenged in *Jones I*.

28 Rule 4 of the Rules Governing Section 2254 Cases in the United States

