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15UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ANTHONY BARKER,)	CASE NO. CV 17-4734-RSWL (PJW)
)	
Petitioner,)	ORDER DISMISSING SECOND OR
)	SUCCESSIVE HABEAS CORPUS PETITION
v.)	AND DENYING CERTIFICATE OF
)	APPEALABILITY
DEAN BORDERS, WARDEN,)	
)	
Respondent.)	
_____)	

16 Before the Court is Petitioner's third attempt to challenge his
17 1995 state convictions and sentence. His first petition was denied on
18 the merits in June 2001. (*Barker v. Garcia*, CV 01-1790-CM (CT), June
19 22, 2001 Order.) The Ninth Circuit Court of Appeals then denied his
20 application for a certificate of appealability. (CCA No. 01-56312,
21 January 18, 2002 Order.) Thereafter, Petitioner moved for permission
22 to raise a newly-exhausted claim that had earlier been dismissed
23 without prejudice, which the Ninth Circuit granted nunc pro tunc.
24 Construing the Ninth Circuit's order as an authorization to file a
25 second or successive petition, the Court denied the petition on the
26 merits in 2003. (*Barker v. Garcia*, CV 02-6040-TJH (CT), January 13,
27 2003 Order.) The Court and the Ninth Circuit subsequently denied
28 Petitioner's applications for a certificate of appealability.

1 In April 2015, Petitioner filed a new application, which the
2 Court dismissed as an unauthorized second or successive petition.
3 (*Barker v. Perez*, CV 15-2963-RSWL (PJW), April 27, 2015 Order.)
4 Petitioner did not appeal that dismissal.

5 Absent authorization from the Ninth Circuit, Petitioner may not
6 bring another habeas petition challenging his 1995 conviction and
7 sentence. See 28 U.S.C. § 2244; see also *Burton v. Stewart*, 549 U.S.
8 147, 157 (2007) (holding district court lacks jurisdiction to consider
9 the merits of a second or successive petition absent prior authoriza-
10 tion from the circuit court). For this reason, the Petition is
11 dismissed.

12 The Court further finds that Petitioner has not made a
13 substantial showing of the denial of a constitutional right or that
14 the court erred in its procedural ruling and, therefore, a certificate
15 of appealability will not issue in this action. See 28 U.S.C.
16 § 2253(c)(2); Fed. R. App. P. 22(b); *Miller-El v. Cockrell*, 537 U.S.
17 322, 336 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

18 IT IS SO ORDERED.

19 DATED: 7/13/2017

s/ RONALD S.W. LEW

RONALD S. W. LEW

UNITED STATES DISTRICT JUDGE

21 Presented by:

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23 _____
24 PATRICK J. WALSH
25 UNITED STATES MAGISTRATE JUDGE
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