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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ANDRE UNDERWOOD,)	CASE NO. CV 18-825-SJO (PJW)
)	
Petitioner,)	ORDER DISMISSING SECOND OR
)	SUCCESSIVE HABEAS CORPUS PETITION
v.)	AND DENYING CERTIFICATE OF
)	APPEALABILITY
C. PFEIFFER, WARDEN,)	
)	
Respondent.)	
_____)	

Before the Court is Petitioner’s second attempt to challenge his 1982 state conviction and resultant sentence. His first petition was denied on the merits in August 1994. (*Underwood v. Prunty*, CV 94-545-RAP (B), August 31, 1994 Order; Petition at 7.) Petitioner apparently did not appeal that dismissal.

Absent authorization from the Ninth Circuit, Petitioner may not bring another habeas petition challenging his 1982 conviction and sentence. See 28 U.S.C. § 2244; see also *Burton v. Stewart*, 549 U.S. 147, 157 (2007) (holding district court lacks jurisdiction to consider the merits of a second or successive petition absent prior authorization from the circuit court). For this reason, the Petition is dismissed.

1 The Court further finds that Petitioner has not made a
2 substantial showing of the denial of a constitutional right or that
3 the court erred in its procedural ruling and, therefore, a certificate
4 of appealability will not issue in this action. See 28 U.S.C.
5 § 2253(c)(2); Fed. R. App. P. 22(b); *Miller-El v. Cockrell*, 537 U.S.
6 322, 336 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

7 Pursuant to Ninth Circuit Rule 22-3(a), the Court refers the
8 Petition to the United States Court of Appeals for the Ninth Circuit
9 for consideration as an application for leave to file a second or
10 successive petition. The Clerk shall send a copy of the Petition and
11 a copy of this Order to the Clerk of the United States Court of
12 Appeals for the Ninth Circuit. The Clerk shall provide Petitioner
13 with a form recommended by the Ninth Circuit for filing an Application
14 for Leave to File Second or Successive Petition Under 28 U.S.C. § 2254
15 or Motion Under 28 U.S.C. § 2255 (Appeal Form 12).

16 IT IS SO ORDERED.

17 DATED: February 13, 2018.

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21 _____
S. JAMES OTERO
UNITED STATES DISTRICT JUDGE

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24 Presented by:

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26 _____
PATRICK J. WALSH
27 UNITED STATES MAGISTRATE JUDGE

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