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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

BRIAN KEITH LAWS,)	NO. CV 20-9202-FMO(E)
)	
Petitioner,)	
)	
v.)	ORDER OF DISMISSAL
)	
W.J. SULLIVAN (Warden),)	
et al.,)	
)	
Respondents.)	
_____)	

Petitioner filed a "Petition for Writ of Habeas Corpus By a Person in State Custody" on October 6, 2020. The Petition seeks to challenge a 1993 Los Angeles Superior Court criminal judgment (Petition, p. 2).

Petitioner previously challenged this same Superior Court judgment in a prior habeas corpus petition filed in this Court. See Laws v. Lamarque, CV 02-1032-RSWL(PJW). On April 18, 2005, this Court entered Judgment in Laws v. Lamarque, CV 02-1032-RSWL(PJW), denying and dismissing the prior petition on the merits with prejudice.

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1 The Court must dismiss the present Petition in accordance with
2 28 U.S.C. section 2244(b) (as amended by the "Antiterrorism and
3 Effective Death Penalty Act of 1996"). Section 2244(b) requires that
4 a petitioner seeking to file a "second or successive" habeas petition
5 first obtain authorization from the Court of Appeals. See Burton v.
6 Stewart, 549 U.S. 147, 157 (2007) (where petitioner did not receive
7 authorization from Court of Appeals before filing second or successive
8 petition, "the District Court was without jurisdiction to entertain
9 [the petition]"); Barapind v. Reno, 225 F.3d 1100, 1111 (9th Cir.
10 2000) ("the prior-appellate-review mechanism set forth in § 2244(b)
11 requires the permission of the court of appeals before 'a second or
12 successive habeas application under § 2254' may be commenced"). A
13 petition need not be repetitive to be "second or successive," within
14 the meaning of 28 U.S.C. section 2244(b). See, e.g., Thompson v.
15 Calderon, 151 F.3d 918, 920-21 (9th Cir.), cert. denied, 524 U.S. 965
16 (1998); Calbert v. Marshall, 2008 WL 649798, at *2-4 (C.D. Cal.
17 Mar. 6, 2008). The dismissal of a habeas petition as untimely
18 "constitutes an adjudication on the merits that renders future
19 petitions under § 2254 challenging the same conviction 'second or
20 successive' petitions under § 2244(b)." McNabb v. Yates, 576 F.3d
21 1028, 1030 (9th Cir. 2009). Petitioner evidently has not yet obtained
22 authorization from the Ninth Circuit Court of Appeals. Consequently,
23 this Court cannot entertain the present Petition. See Burton v.
24 Stewart, 549 U.S. at 157; see also Remsen v. Att'y Gen. of Calif., 471
25 Fed. App'x 571, 571 (9th Cir. 2012) (if a petitioner fails to obtain
26 authorization from the Court of Appeals to file a second or successive
27 petition, "the district court lacks jurisdiction to consider the
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1 petition and should dismiss it.") (citation omitted).¹

2
3 Petitioner's attempt to focus on the California Supreme Court's
4 denial of a 2020 collateral challenge to the 1993 Superior Court
5 judgment does not avoid the "second or successive" bar. At base,
6 Petitioner still seeks to avoid the consequences of the Superior Court
7 sentence he is being compelled to serve. Moreover, "federal habeas
8 relief is not available to address alleged procedural errors in state
9 post-conviction proceedings." Ortiz v. Stewart, 149 F.3d 923, 939
10 (9th Cir. 1998), cert. denied, 526 U.S. 1123 (1999); see Franzen v.
11 Brinkman, 877 F.2d 26, 26 (9th Cir.), cert. denied, 493 U.S. 1012
12 (1989) (holding that allegations of error in state's post-conviction
13 review are not addressable through habeas corpus proceedings); cf. 28
14 U.S.C. § 2254(a) (limiting federal habeas corpus relief to cases in
15 which there has been a "violation of the Constitution or laws or
16 treaties of the United States").

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25 For all of the foregoing reasons, the Petition is denied and

26 _____
27 ¹ This Court rebuffed two previous attempts by Petitioner
28 to bring a "second or successive" petition challenging the 1993
Superior Court judgment. See Laws v. Soto, CV 13-2228-SJO (PJW);
Laws v. Dayey, CV 15-7304-SJO (PJW).

