

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JOSE RAMON MORALES,)	Case No. CV 21-1485-DSF (JEM)
)	
Petitioner,)	
)	ORDER ACCEPTING FINDINGS AND
v.)	RECOMMENDATIONS OF UNITED
)	STATES MAGISTRATE JUDGE
PEOPLE OF THE STATE OF)	
CALIFORNIA,)	
)	
Respondent.)	

Pursuant to 28 U.S.C. Section 636, the Court has reviewed the pleadings, the records on file, and the Report and Recommendation of the United States Magistrate Judge. No Objections to the Report and Recommendation have been filed within the time allowed for Objections. The Court accepts the findings and recommendations of the Magistrate Judge.

Based on the foregoing, IT IS HEREBY ORDERED:

- (1) Respondent’s Motion to Dismiss is GRANTED.
- (2) Pursuant to Ninth Circuit Rule 22-3(a), the Court hereby REFERS the Petition to the Ninth Circuit for consideration as an application for leave to file a second or successive habeas corpus petition.

1 "Petitioner is advised that this referral alone does not constitute compliance with
2 Circuit Rule 22-3 and 28 U.S.C. § 2255(h). Petitioner must still file a motion for leave to
3 proceed in the Court of Appeals and make the requisite showing" to convince the Ninth
4 Circuit to grant him leave to file this second-or-successive habeas petition." Henderson v.
5 Madden, No. LA CV 16-02003-VBF (AGR), 2016 WL 4009873, at *3 n.1, *5-6 (C.D. Cal.
6 June 3, 2016) (collecting cases in which Ninth Circuit district courts issued this advisement
7 to pro se habeas petitioners). Petitioner is directed to consult this statute and Ninth Circuit
8 Rule 22-3 for further information.


9 (3) The Clerk shall send copies of the Petition and this Order to the Ninth Circuit.
10 The Clerk also shall mail Petitioner a copy of Ninth Circuit Rule 22-3 and Ninth Circuit Court
11 of Appeals Form 12, entitled "Application for Leave to File Second or Successive Petition
12 Under 28 U.S.C. § 2254 or Motion Under 28 U.S.C. § 2255."

13 (4) The Petition is DISMISSED without prejudice to its refiling after Petitioner obtains
14 permission to do so from the Ninth Circuit.

15 (5) Judgment shall be entered accordingly.

16 IT IS SO ORDERED.

17
18 DATED: June 24, 2021

19 
20 _____
21 DALE S. FISCHER
22 UNITED STATES DISTRICT JUDGE
23
24
25
26
27
28