

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

GILBERT HERNANDEZ ROBLES, JR.,)	CASE NO. ED CV 14-1123-R (PJW)
)	
Petitioner,)	
)	ORDER DISMISSING
v.)	SECOND OR SUCCESSIVE HABEAS CORPUS
)	PETITION AND DENYING CERTIFICATE
SAN FRANCISCO,)	OF APPEALABILITY
)	
Respondent.)	
_____)	

16 Before the Court is Petitioner’s sixth attempt to challenge his
17 1996 state conviction for second degree murder. His first petition
18 was denied as untimely. See *Robles v. Court*, ED CV 12-158-R (PJW),
19 April 26, 2012 Order Accepting Report and Recommendation of United
20 States Magistrate Judge. This constituted a decision on the merits.
21 See *McNabb v. Yates*, 576 F.3d 1028, 1029-30 (9th Cir. 2009).
22 Thereafter, Petitioner filed four more petitions, challenging the same
23 conviction, which were dismissed as second or successive. See *Robles*
24 *v. United States*, ED CV 13-284-R (PJW), March 6, 2013 Order Dismissing
25 Second or Successive Petition; *Robles v. Biter*, ED CV 14-662-R (PJW),
26 April 14, 2014 Order Dismissing Second or Successive Petition; *Robles*
27 *v. Biter*, ED CV 14-816-R (PJW), April 30, 2014 Order Dismissing Second
28 or Successive Petition; *Robles v. Parent*, ED CV 14-1046-R (PJW), May

1 30, 2014 Order Dismissing Second or Successive Petition. The instant
2 petition, his sixth, is also second and/or successive and is subject
3 to dismissal on that ground. See 28 U.S.C. § 2244; *McNabb*, 576 F.3d
4 at 1029-30 (holding dismissal of habeas petition for untimeliness
5 renders subsequent petitions second or successive). Absent an order
6 from the Ninth Circuit Court of Appeals, the Court does not have
7 jurisdiction to entertain a second or successive petition. See 28
8 U.S.C. § 2244(3)(A). For that reason, the Petition is dismissed.

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

15 IT IS SO ORDERED.

16 DATED: JUNE 11, 2014.

17
18
19


20
21
22
23
24
25
26
27
28

MANUEL L. REAL
UNITED STATES DISTRICT JUDGE

Presented by:

22
23
24


25
26
27
28

PATRICK J. WALSH
UNITED STATES MAGISTRATE JUDGE