

5  
6  
7  
8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
10

11  
12 RELMON H. DAVIS, III,  
13                                      Petitioner,  
14                                      v.  
15 DAVE DAVEY,  
16                                      Respondent.  
17

Case No. SA CV 17-0999 DOC (JCG)

**ORDER SUMMARILY DISMISSING  
ACTION WITHOUT PREJUDICE AND  
DENYING CERTIFICATE OF  
APPEALABILITY**

18            On June 6, 2017, petitioner Relmon H. Davis, III (“Petitioner”), a California  
19 prisoner proceeding *pro se*, filed a Petition for Writ of Habeas Corpus pursuant to 28  
20 U.S.C. § 2241 (“Petition”). [Dkt. No. 1.] Notably, this is not Petitioner’s first federal  
21 petition challenging his 2009 state court conviction for assault with a deadly weapon  
22 and forcible oral copulation. (*See* Pet. at 2.) Rather, Petitioner also challenged this  
23 *same* conviction in 2013 (“2013 Petition”). [*See* C.D. Cal. Case No. SA CV 13-0886  
24 DOC (JCG), Dkt. No. 1.] The 2013 Petition was denied. [*See id.*, Dkt. Nos. 4, 6, 7.]

25            Nevertheless, Petitioner failed to obtain the Ninth Circuit’s authorization to file  
26 a “second or successive” petition before commencing the instant action. *See* 28 U.S.C.  
27 § 2244(b). Thus, the Petition is an unauthorized “second or successive” petition, and  
28 the Court must dismiss this action for lack of jurisdiction. *See id.* Moreover, an

1 “attack on a state court conviction may not be brought in a habeas petition under 28  
2 U.S.C. § 2241 petition.” *Tomlinson v. McGrew*, 2014 WL 1512187, at \*1-2 (C.D. Cal.  
3 Mar. 18, 2014).

4 Accordingly, **IT IS ORDERED THAT** this action be **SUMMARILY**  
5 **DISMISSED WITHOUT PREJUDICE**, pursuant to Rule 4 of the Rules Governing  
6 Section 2254 Cases in the United States District Courts.

7 **IT IS FURTHER ORDERED** that a certificate of appealability be **DENIED**  
8 because Petitioner has not shown that jurists of reason would find it debatable whether  
9 this Court was correct in its procedural ruling. *See Slack v. McDaniel*, 529 U.S. 473,  
10 484 (2000).

11 **LET JUDGMENT BE ENTERED ACCORDINGLY.**

12  
13  
14 DATED: December 7, 2017



15  
16 HON. DAVID O. CARTER  
UNITED STATES DISTRICT JUDGE  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28