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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 GERALD L. TUCKER,
12 Petitioner,

13 v.

14 DANIEL PARAMO,
15 Respondent.

Case No. 1:15-cv-01164-AWI-SAB-HC

ORDER DENYING SECOND MOTION
FOR RECONSIDERATION

(ECF No. 23)

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17 Petitioner is a state prisoner proceeding pro se whose petition for writ of habeas corpus
18 pursuant to 28 U.S.C. § 2254 was dismissed on February 2, 2016. (ECF No. 19). This Court
19 previously denied petitions for writ of habeas corpus arising from both the 1998 conviction for
20 failure to register and the 2002 conviction for murder, and Petitioner failed to obtain prior leave
21 from the Ninth Circuit to file a successive petition. Thus, applicable law required the Court to
22 dismiss the petition for lack of jurisdiction. See 28 U.S.C. § 2244(b).

23 On May 2, 2016, Petitioner submitted a document, which the Court construed as a motion
24 for reconsideration. (ECF No. 21). On May 19, 2016, the Court denied the motion for
25 reconsideration. (ECF No. 22). On August 22, 2016, the Court received the instant motion,
26 which is labeled “Motion as of Double Jeopardy.” (ECF No. 23). The Court construes this as a
27 second motion for reconsideration. See Bernhardt v. Los Angeles County, 339 F.2d 920, 925
28 (9th Cir. 2003) (courts have a duty to construe *pro se* pleadings and motions liberally).

1 As set forth in detail in the findings and recommendation (ECF No. 16) and the order
2 dismissing the petition (ECF No. 19), this Court lacks jurisdiction to consider Petitioner's
3 petition for writ of habeas corpus. Since Petitioner has already filed petitions for writ of habeas
4 corpus regarding his 1998 and 2002 convictions, he cannot file another petition in this Court
5 regarding the same convictions without first obtaining permission from the United States Court
6 of Appeal for the Ninth Circuit. Although it appears that Petitioner subsequently has submitted to
7 the Ninth Circuit an application for permission to file a second or successive habeas corpus
8 petition, (ECF No. 23 at 4), there is no indication that the application has been granted.
9 Regardless, Petitioner had not obtained prior authorization from the Ninth Circuit to file the
10 petition in the instant case.

11 Accordingly, Petitioner's second motion for reconsideration of the Court's dismissal of
12 his petition for writ of habeas corpus is hereby denied.

13 IT IS SO ORDERED.

14 Dated: October 14, 2016

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17 SENIOR DISTRICT JUDGE
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