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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ALVIS GARRISON,

Petitioner,

No. CIV S 10-339 GGH P

vs.

RAUL LOPEZ,

Respondent.

ORDER AND

FINDINGS AND RECOMMENDATIONS

_____ /

Petitioner, a state prisoner proceeding pro se, has filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner has paid the filing fee.

Petitioner challenges his 2000 conviction from Sacramento County for three counts of robbery, one count of attempted robbery and two counts of being a felon in possession of a firearm.

Court records indicate that petitioner previously filed a petition in this court challenging the same conviction in Garrison v. Reynolds, CIV S-02-1544 DFL JFM P.¹ On March 23, 2005, 02-1544 DFL JFM P was denied on the merits.

¹ Judicial notice may be taken of court records. Valerio v. Boise Cascade Corp., 80 F.R.D. 626, 635 n.1 (N.D. Cal. 1978), aff'd, 645 F.2d 699 (9th Cir.), cert. denied, 454 U.S. 1126 (1981).

1 Before a second or successive application for writ of habeas corpus may be filed
2 in the district court, the applicant shall move in the appropriate court of appeals for an order
3 authorizing the district court to consider the application. 28 U.S.C. § 2244(b)(3)(A). Petitioner
4 has not demonstrated that the Ninth Circuit Court of Appeals has authorized him to proceed with
5 this successive or second application. For that reason, this action must be dismissed.

6 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court shall assign
7 a district judge to this action;

8 IT IS HEREBY RECOMMENDED that this action be dismissed.

9 These findings and recommendations are submitted to the United States District
10 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty
11 days after being served with these findings and recommendations, any party may file written
12 objections with the court and serve a copy on all parties. Such a document should be captioned
13 “Objections to Magistrate Judge’s Findings and Recommendations.” Any reply to the objections
14 shall be served and filed within ten days after service of the objections. The parties are advised
15 that failure to file objections within the specified time may waive the right to appeal the District
16 Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

17 DATED: February 25, 2010

18 /s/ Gregory G. Hollows

19 UNITED STATES MAGISTRATE JUDGE
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