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8	UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
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11	ARTHUR E. TYES,	No. 2:15-cv-2655 GGH P
12	Petitioner,	
13	V.	ORDER ¹
14	DANIEL PARAMO, Warden,	
15	Respondent.	
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17	Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas	
18	corpus pursuant to 28 U.S.C. § 2254. Petitioner has paid the filing fee.	
19	The court's records reveal that petitioner has previously filed an application for a writ of	
20	habeas corpus attacking the conviction and sentence challenged in this case. The previous	
21	application was filed on July 2, 2012, and was denied on the merits on October 2, 2013. ² See	
22	Tyes v. McEwen, No. 2:12-cv-1755 TLN DAD P. The current petition represents a successive	
23	challenge to the same 1993 conviction at issue in petitioner's prior petition. Before petitioner can	
24	proceed with the instant application, he must move in the United States Court of Appeals for the	
25	Ninth Circuit for an order authorizing the district court to consider the application. 28 U.S.C. §	
26	¹ Petitioner has consented to the undersigned as presiding judge pursuant to 28 U.S.C section 636 (c). ² The previous petition was dismissed as time barred which is a decision on the merits. <u>See McNabb v. Yates</u> , 576 F.3d 1028, 1029-30 (9th Cir. 2009).	
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1	2244(b)(3). Therefore, petitioner's application must be dismissed without prejudice to its refiling	
2	upon obtaining authorization from the United States Court of Appeals for the Ninth Circuit.	
3	Accordingly, IT IS HEREBY ORDERED that this action be dismissed without prejudice.	
4	Dated: January 29, 2016	
5	/s/ Gregory G. Hollows	
6	UNITED STATES MAGISTRATE JUDGE	
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9	GGH:076/tyes2655.succ	
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