



1 In the present action, petitioner challenges the conviction for second degree robbery  
2 entered against him on December 15, 2009, in the California Superior Court, County of  
3 Sacramento, case number 09F05830. ECF No. 1 at 1, 40-41, 50. The court has examined its  
4 records, and finds that petitioner challenged the same judgment of conviction in an earlier action.  
5 Specifically, in *Strawther v. Grounds*, No. 2:13-cv-1357-MCE-EFB (E.D. Cal.), the court  
6 considered petitioner's challenge to the same judgment of conviction. *See Strawther*, ECF No. 26  
7 (magistrate judge's June 24, 2015 findings and recommendations to deny petitioner's application  
8 for a writ of habeas corpus on the merits); ECF No. 30 (district judge's October 6, 2015 order  
9 adopting findings and recommendations and denying petitioner's application for a writ of habeas  
10 corpus). Since petitioner challenges the same judgment now that he previously challenged and  
11 which was adjudicated on the merits, the petition now pending is second or successive.

12 Petitioner offers no evidence that the appellate court has authorized this court to consider  
13 a second or successive petition. Since petitioner has not demonstrated that the appellate court has  
14 authorized this court to consider a second or successive petition, this action must be dismissed for  
15 lack of jurisdiction. *See Burton*, 549 U.S. 147; *Cooper v. Calderon*, 274 F.3d 1270, 1274 (9th  
16 Cir. 2001) (per curiam).


17 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court randomly assign a  
18 United States District Judge to this action.

19 Further, IT IS HEREBY RECOMMENDED that this action be dismissed for lack of  
20 jurisdiction.

21 These findings and recommendations are submitted to the United States District Judge  
22 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
23 after being served with these findings and recommendations, any party may file written  
24 objections with the court and serve a copy on all parties. Such a document should be captioned  
25 "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections  
26 shall be served and filed within fourteen days after service of the objections. Failure to file  
27 objections within the specified time may waive the right to appeal the District Court's order.  
28 *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir.

1 1991). In his objections petitioner may address whether a certificate of appealability should issue  
2 in the event he files an appeal of the judgment in this case. *See* Rule 11, Rules Governing Section  
3 2254 Cases (the district court must issue or deny a certificate of appealability when it enters a  
4 final order adverse to the applicant).

5 DATED: April 17, 2019.

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7 EDMUND F. BRENNAN  
8 UNITED STATES MAGISTRATE JUDGE  
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