

1 the district court to consider the application.” 28 U.S.C. § 2244(b)(3)(A). Without an order from
2 the appellate court, the district court is without jurisdiction to consider a second or successive
3 petition. *See Burton*, 549 U.S. 147.

4 In the present action, petitioner challenges the sentence he is serving pursuant to a
5 conviction in case number P10CRF0036, entered against him in the California Superior Court,
6 County of El Dorado, on September 10, 2010. ECF No. 1 at 1. Court records reflect that
7 petitioner previously challenged this judgment of conviction in this court. *See Sharonoff v.*
8 *Warden*, No. 2:13-cv-0794-TLN-AC (E.D. Cal.). On March 9, 2018, the court denied the petition
9 on the merits. *See id.*, ECF Nos. 84, 93. Since petitioner challenges the same judgment now that
10 he previously challenged and which was adjudicated on the merits, the petition now pending is
11 second or successive. Petitioner fails to show that the appellate court has authorized this court to
12 consider a second or successive petition. Therefore, this action must be dismissed for lack of
13 jurisdiction. *See Burton*, 549 U.S. 147; *Cooper v. Calderon*, 274 F.3d 1270, 1274 (9th Cir. 2001)
14 (per curiam).

15 Accordingly, IT IS HEREBY ORDERED that:

- 16 1. Petitioner’s application for leave to proceed in forma pauperis (ECF No. 2) is granted;
17 and
- 18 2. The Clerk of the Court shall randomly assign a United States District Judge to this
19 case.

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

22 These findings and recommendations are submitted to the United States District Judge
23 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
24 after being served with these findings and recommendations, any party may file written
25 objections with the court and serve a copy on all parties. Such a document should be captioned
26 “Objections to Magistrate Judge’s Findings and Recommendations.” Any reply to the objections
27 shall be served and filed within fourteen days after service of the objections. Failure to file
28 objections within the specified time may waive the right to appeal the District Court’s order.

1 *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir.
2 1991). In his objections petitioner may address whether a certificate of appealability should issue
3 in the event he files an appeal of the judgment in this case. *See* Rule 11, Rules Governing Section
4 2254 Cases in the United States District Courts (the district court must issue or deny a certificate
5 of appealability when it enters a final order adverse to the applicant).

6 DATED: April 13, 2020.

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8 EDMUND F. BRENNAN
9 UNITED STATES MAGISTRATE JUDGE
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