

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

United States District Court  
For the Northern District of California

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

JOHN DALTON,  
Defendant/Petitioner,  
v.  
UNITED STATES OF AMERICA,  
Plaintiff/Respondent.

No. C 02-4949 SI  
No. CR 96-0276 SI

**ORDER DENYING PETITIONER'S  
MOTION FOR SUMMARY JUDGMENT**

John Dalton has filed a motion for summary judgment related to his 1996 criminal conviction. This motion is a direct attack on his now final criminal conviction and is properly brought through a petition for habeas corpus. Mr. Dalton is referred to the Court's January 26, 2009 Order, at 3 [Docket No. 659] for instructions on obtaining an order from the United States Court of Appeals for the Ninth Circuit authorizing this Court to consider this, the most recent of his successive habeas petitions. This action is DISMISSED without prejudice to Mr. Dalton filing a petition in this Court after he obtains the necessary order from the Court of Appeals for the Ninth Circuit.

**IT IS SO ORDERED.**

Dated: February 9, 2009

  
\_\_\_\_\_  
SUSAN ILLSTON  
United States District Judge