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

AURELIO ROGER MONTOYA,)	
)	
Petitioner,)	No. C 06-7466 CRB (PR)
)	
vs.)	ORDER OF DISMISSAL
)	
WARDEN AYERS,)	(Doc # 2)
)	
Respondent.)	

Petitioner, a state prisoner currently incarcerated at San Quentin State Prison, has filed a second or successive petition for a writ of habeas corpus under 28 U.S.C. § 2254. His first petition was denied on the merits on August 3, 2001. See Montoya v. Newland, No. 00-1812 CRB (PR) (N.D. Cal. Aug. 3, 2001) (order denying petition for a writ of habeas corpus).

A second or successive petition may not be filed in this court unless petitioner first obtains from the United States Court of Appeals for the Ninth Circuit an order authorizing this court to consider the petition. See 28 U.S.C. § 2244(b)(3)(A). Petitioner has not obtained such an order from the Ninth Circuit. The petition accordingly is DISMISSED without prejudice to refiling if petitioner obtains the necessary order.

The clerk shall close the file and terminate all pending motions (see, e.g., doc # 2) as moot.

SO ORDERED.

DATED: December 11, 2006



 CHARLES R. BREYER
 United States District Judge