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

9 THARON B. HILL,

10 Petitioner,

11 v.

12 STATE OF CALIFORNIA,

13 Respondent.
14 _____

No. C 07-3170 MMC (PR)

**ORDER OF DISMISSAL; DENYING
MOTION TO HOLD PETITION IN
ABEYANCE**

(Docket No. 2)

15 On June 15, 2007, petitioner, a California prisoner proceeding pro se, filed the above-
16 titled petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging a
17 conviction and sentence on murder charges brought in Butte County Superior Court in 1988.
18 On June 22, 2007, petitioner filed a “Motion to Hold Writ of Habeas Corpus in Abeyance,”
19 in which he indicates he previously filed a federal habeas petition challenging the same
20 conviction and sentence.

21 A second or successive petition may not be filed in the district court unless the
22 petitioner first obtains from the appropriate United States Court of Appeals an order
23 authorizing the district court to consider such petition. See 28 U.S.C. § 2244(b)(3)(A). In
24 support of the instant motion, petitioner states that he “in his haste made a gross error when
25 failing to apply” to the United States Court of Appeals for the Ninth Circuit for permission to
26 file a second or successive petition. Petitioner cites no authority, and this Court is aware of
27 none, permitting a district court to hold “in abeyance” a second or successive petition that the
28 Court of Appeals has not authorized the district court to consider under § 2244(b)(3)(A), and


1 the statute itself provides for no such relief; indeed the statute expressly requires that the
2 authorization from the Court of Appeals be obtained “before” the second or successive
3 petition is “filed” in district court. See id.

4 Accordingly, petitioner’s motion to hold the instant petition in abeyance is hereby
5 DENIED and the instant petition is hereby DISMISSED without prejudice to refile after
6 petitioner obtains the necessary authorization from the Ninth Circuit.

7 The Clerk shall close the file and terminate Docket No. 2.

8 IT IS SO ORDERED.

9 DATED: June 27, 2007

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11 MAXINE M. CHESNEY
12 United States District Judge
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