

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

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

LAFRANCE BEAL,)	
)	
Petitioner,)	No. C 08-1705 TEH (PR)
)	
vs.)	ORDER OF DISMISSAL
)	AND GRANTING IN
M. S. EVANS, Warden,)	FORMA PAUPERIS
)	MOTION
Respondents.)	

This is a petition for a writ of habeas corpus brought pro se by Petitioner pursuant to 28 U.S.C. § 2254 challenging the constitutional validity of his state conviction. An earlier federal petition challenging the same conviction and sentence was denied on the merits on November 7, 2001. See Beal v. Plier, No. C 3:00-cv-04103 TEH (PR). Petitioner has filed a motion to proceed in forma pauperis (Docket No. 4) pursuant to 28 U.S.C. § 1915(a) which is now GRANTED. Petitioner’s “application for waiver of court fees and costs,” which is apparently a form used in state court, is DENIED as moot (docket no. 6).


The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") was signed into law on April 24, 1996. Under AEDPA, 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 presented such an order from the Ninth Circuit to this Court. The petition

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

accordingly is DISMISSED without prejudice to refile if petitioner obtains the necessary order. As such, the Clerk shall close the file and enter judgment in accordance with this order.

SO ORDERED.

DATED: 01/21/09



THELTON E. HENDERSON
United States District Judge