

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

RUCHELL CINQUE MAGEE,

No. C-09-2175 TEH (PR)

Petitioner,

v.

ORDER DISMISSING PETITION FOR
WRIT OF HABEAS CORPUS

L. ADAMS, Warden

Respondent.

(Doc. ## 3, 4, 5 & 7)

_____/

Ruchell Cinque Magee, a prisoner at California State Prison, Corcoran, and frequent litigant in federal court, has filed a second or successive pro se Petition for a Writ of Habeas Corpus under 28 U.S.C. section 2254 challenging a 1975 conviction and life sentence from the Santa Clara County Superior Court. On August 27, 2008, this Court dismissed as successive his most recently filed habeas petition challenging his 1975 conviction and sentence. See Magee v. Adams, No. C-08-3754 TEH, Doc. #4.

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

1 consider the Petition. See 28 U.S.C. § 2244(b)(3)(A). Petitioner,
2 however, has not obtained such an order from the Ninth Circuit.
3 Accordingly, the Petition is DISMISSED without prejudice to refiling
4 if Petitioner obtains the requisite Order.

5 The Clerk is directed to terminate all pending motions as
6 moot and close the file.

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS SO ORDERED.

DATED

06/16/09



THELTON E. HENDERSON
United States District Judge