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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ALLEN DOBSHINSKY,
Petitioner,

No. C 09-3256 MHP (pr)

ORDER OF DISMISSAL

v.

H.D.S.P. and PEOPLE OF THE
STATE OF CALIFORNIA,
Respondents.

Allen Dobshinsky has filed a petition for writ of habeas corpus to challenge his conviction and sentence in Sonoma County Superior Court in 2000 for inflicting corporal injury on a cohabitant.

This is not Dobshinsky's first challenge to his 2000 conviction. He also challenged it in an action filed in 2006, Dobshinsky v. Runnels, C 06-2789 MHP, that was dismissed on July 19, 2007, as untimely under the habeas statute of limitations. His appeal from that dismissal was dismissed for lack of jurisdiction in 2008.

A second or successive petition may not be filed in this court unless the petitioner first obtains from the United States Court of Appeals for the Ninth Circuit an order authorizing this court to consider the petition. 28 U.S.C. § 2244(b)(3)(A).

Dobshinsky has not obtained the necessary order from the Ninth Circuit permitting him to file a second or successive petition. This court will not entertain a new petition from Dobshinsky until he first obtains permission from the Ninth Circuit to file such a petition.

United States District Court
For the Northern District of California

1 This action is DISMISSED without prejudice to Dobshinsky filing a petition in this court
2 after he obtains the necessary order from the Ninth Circuit.

3 If Dobshinsky wants to attempt to obtain the necessary order from the Ninth Circuit,
4 he should very clearly mark the first page of his document as a "MOTION FOR ORDER
5 AUTHORIZING DISTRICT COURT TO CONSIDER SECOND OR SUCCESSIVE
6 PETITION PURSUANT TO 28 U.S.C. § 2244(b)(3)(A)" rather than labeling it as a habeas
7 petition because the Ninth Circuit clerk's office is apt to simply forward to this court any
8 document labeled as a habeas petition. He also should mail the motion to the Ninth Circuit
9 (at 95 Seventh Street, San Francisco, CA 94103), rather than to this court. In his motion to
10 the Ninth Circuit, he should explain how he meets the requirements of 28 U.S.C. § 2244(b).

11 The in forma pauperis application is DENIED. (Docket # 2.)

12 The clerk shall close the file.

13 IT IS SO ORDERED.

14 DATED: August 26, 2009


Marilyn Hall Patel
United States District Judge

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