

1 opposition brief explains that this is his
2 fourth habeas action concerning the same
3 conviction. [Petitioner's] first habeas
4 petition in this court, Green v. Pelican Bay
5 State Prison, No. C-92-1977 TEH, was dismissed
6 as frivolous. [Petitioner's] second habeas
7 petition in this court, Green v. Marshall, No.
8 C-94-1658 TEH, was dismissed for failure to
9 prosecute. [Petitioner's] third habeas petition
10 in this court, Green v. Henry, No. C-98-803 TEH,
11 was dismissed as untimely filed and as a
12 successive petition filed without appellate
13 court permission. After that third dismissal,
14 [Petitioner] made four applications to the
15 United States Court of Appeals for the Ninth
16 Circuit to try to obtain permission to file a
17 second or successive petition. All four
18 applications were denied. [Citation].

11 See Green v. Ortiz, No. C-00-4615 TEH (PR), Doc. #11. On December
12 13, 2007 and again on June 12, 2009, this Court dismissed two more
13 federal petitions challenging the same judgment because Petitioner
14 failed to obtain appellate court permission to file a second or
15 successive petition. See Green v. Walker, No. C-07-6097 TEH (PR),
16 Doc. #3; Green v. Walker, No. C-09-2490 TEH (PR), Doc. #4.

17 A second or successive petition may not be filed in the
18 district court unless the petitioner first obtains from the
19 appropriate federal court of appeals an order authorizing the
20 district court to consider the petition. 28 U.S.C. § 2244(b)(3)(A).
21 Petitioner has not obtained an order from the Ninth Circuit
22 authorizing this Court to consider the instant petition.
23 Accordingly, the Petition is DISMISSED without prejudice to refiling
24 if Petitioner obtains the necessary order.

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The Clerk shall terminate any pending motions as moot and close the file.

IT IS SO ORDERED.

DATED 1/7/2011



THELTON E. HENDERSON
United States District Judge