IN TH	E UNITED	STATES	DISTRI	CT CO	JRT
60D WITE	NORTHERN	T DICMDI	- CITI OTT	CALTE	ODATT 7

LONZELL GREEN,

No. C-10-5233 TEH (PR)

Petitioner,

v.

TIM VIRGA, Warden,

ORDER OF DISMISSAL

Respondent.

Petitioner, a state prisoner presently incarcerated at California State Prison in Represa, California, and a frequent litigant in this Court, has filed another second or successive Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2254 challenging a 1991 criminal judgment from Alameda County Superior Court. Doc. #1.

In response to Petitioner's fourth habeas petition filed in this Court, No. C-00-4615 TEH (PR), the Court on June 6, 2001 noted in its order of dismissal:

This action is not [Petitioner's] first challenge to his 1991 Alameda County Superior Court conviction for first degree murder. His

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

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

1

2

3

4

5

6

7

8

9

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

A second or successive petition may not be filed in the district court unless the petitioner first obtains from the appropriate federal court of appeals an order authorizing the district court to consider the petition. 28 U.S.C. § 2244(b)(3)(A). Petitioner has not obtained an order from the Ninth Circuit

authorizing this Court to consider the instant petition.

Accordingly, the Petition is DISMISSED without prejudice to refiling

if Petitioner obtains the necessary order.

25 //

26 //

27

1		The Clerk shall termi	nate any pending motions as moot and		
2	close th	he file.			
3					
4		IT IS SO ORDERED.			
5			Helly of anderson		
6	DATED	1/7/2011	<u> </u>		
7			THELTON E. HENDERSON United States District Judge		
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					
21					
22					
23					
24					
25					
26	G:\PRO-SE\TEH\HC.10\Green-10-5233-dismissal-successive.wpd				