

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
28UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

STEVEN HADEN,

No. C-11-4799 EMC (pr)

Petitioner,

v.

ORDER OF DISMISSALMICHAEL MARTEL, Warden; *et al.*,Respondent.

Steven Haden, a prisoner incarcerated at San Quentin State Prison, filed a *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 to challenge the sentence imposed for his 1998 spousal abuse conviction from the San Mateo County Superior Court. The petition is not his first federal habeas petition concerning his 1998 conviction. His earlier habeas petition in *Haden v. Hubbard*, No. C 01-20404 JF, was denied in 2004. The Ninth Circuit denied a certificate of appealability when Haden attempted to appeal the denial of that petition.

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).

Haden has not obtained an order from the Ninth Circuit permitting the filing of a second or successive petition. This Court will not entertain a new petition from Haden until he first obtains permission from the Court of Appeals for the Ninth Circuit to file such a petition. This action is **DISMISSED** without prejudice to Haden filing a petition in this court after he obtains the necessary order from the Court of Appeals for the Ninth Circuit.


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

9 Petitioner's *in forma pauperis* application is **GRANTED**. (Docket # 2).

10 The Clerk shall close the file.

11
12 IT IS SO ORDERED.

13
14 Dated: February 16, 2012

15
16 
EDWARD M. CHEN
United States District Judge