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United States District Court
For the Northern District of California

E-Filed 4/23/12

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

JOHN WILLIAM RIGONI,
Petitioner,

No. C 12-1509 RS (PR)
ORDER OF DISMISSAL

v.

M.D. STAINER,
Respondent.

INTRODUCTION

This is a federal habeas corpus action filed pursuant to 28 U.S.C. § 2254 by a *pro se* state prisoner. The petition is now before the Court for review pursuant to 28 U.S.C. § 2243 and Rule 4 of the Rules Governing Section 2254 Cases. The filing fee has been paid.

DISCUSSION

In the instant petition, petitioner challenges convictions he received in the Santa Clara County Superior Court. In 2010, petitioner filed a petition in this Court (No. 10-0198 RS) in which he challenged the same convictions. The 2010 petition was dismissed as untimely. That matter is currently on appeal. The instant petition, which alleges the same claims as those raised in the 2010 petition, is, then, second or successive to the 2010 habeas petition.


No. C 12-1509 RS (PR)
ORDER OF DISMISSAL

1 In order to file a second or successive petition, the petitioner must obtain an order
2 from the court of appeals authorizing the district court to consider the petition. *See* 28 U.S.C.
3 § 2244(b)(3)(A). Because petitioner has not shown that he has received such authorization,
4 the instant petition must be dismissed as second or successive to the prior-filed 2010 petition.
5 Accordingly, the petition is DISMISSED WITH PREJUDICE.

6 A certificate of appealability will not issue. Reasonable jurists would not “find the
7 district court’s assessment of the constitutional claims debatable or wrong.” *Slack v.*
8 *McDaniel*, 529 U.S. 473, 484 (2000). Petitioner may seek a certificate of appealability from
9 the Court of Appeals. The Clerk shall enter judgment in favor of respondent, and close the
10 file.

11 **IT IS SO ORDERED.**

12 DATED: April 23, 2012


RICHARD SEEBORG
United States District Judge

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