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5 UNITED STATES DISTRICT COURT
6 NORTHERN DISTRICT OF CALIFORNIA
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8 JAMES E. BRYANT,

No. C 12-2821 SI (pr)

9 Petitioner,

ORDER OF DISMISSAL

10 v.

11 FERNANDO MATA,

12 Respondent.
13 _____/

14 James E. Bryant, who apparently was on parole or in custody on a parole violation, filed
15 a *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 to challenge his parole.
16 The court reviewed the petition and dismissed it with leave to amend. Bryant then filed an
17 amended petition for writ of habeas corpus. The amended petition changes the focus of the
18 action as it concerns errors that occurred in his sentencing in 1982 in San Francisco County
19 Superior Court. He alleges, among other things, that the court clerk made purposeful errors on
20 the abstract of judgment that caused him to spend extra time in prison, the superior court judge
21 erred in allowing a prosecution after five years, and the superior court judge did not give him
22 the right amount of time credits.

23 The petition is not Bryant's first federal habeas petition concerning his 1982 conviction
24 and sentence from the San Francisco County Superior Court. One petition was denied on the
25 merits: *Bryant v. Marshall*, No C 91-1218 SBA. A later petition was dismissed as second or
26 successive without petitioner having first obtained permission to file such a petition: *Bryant v.*
27 *Fairman*, No. C 99-4624 MHP. Another later petition was dismissed as second or successive
28 without petitioner having first obtained permission to file such a petition: *Bryant v. Allison*, No.

1 C 10-2379 JF. Many of the claims in the current petition repeat claims asserted in the 2010
2 action. *See Bryant v. Allison*, No. C 10-2379 JF (petition for writ of habeas corpus, pp. 3-4).

3 A second or successive petition may not be filed in this court unless the petitioner first
4 obtains from the United States Court of Appeals for the Ninth Circuit ("Ninth Circuit") an order
5 authorizing this court to consider the petition. 28 U.S.C. § 2244(b)(3)(A). Bryant has not
6 obtained such an order from the Ninth Circuit. This court will not entertain a new petition from
7 Bryant until he first obtains permission from the Ninth Circuit to file such a petition. This action
8 is DISMISSED without prejudice to Bryant filing a petition in this court after he obtains the
9 necessary order from the Ninth Circuit.

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

18 The clerk shall close the file.

19 IT IS SO ORDERED.

20 DATED: March 15, 2013



SUSAN ILLSTON
United States District Judge

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