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United States District Court
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

ANGEL FLORES,

No. C 12-6141 JSW (PR)

Petitioner,

**ORDER OF DISMISSAL;
GRANTING LEAVE TO
PROCEED IN FORMA PAUPERIS**

v.

PEOPLE OF THE STATE OF
CALIFORNIA,

Respondent.

(Docket No. 2)

Petitioner, a state prisoner currently, has filed a petition for a writ of habeas corpus pursuant challenging a conviction and sentence obtained state court. Petitioner's prior petition to this Court challenging the same conviction and sentence was dismissed as untimely. *Flores v. Curry*, No. 06-7141 JSW (PR) (N.D. Cal., March 19, 2008).

Multiple motions for reconsideration were denied in that case, and both this Court and the United States Court of Appeals denied his requests for a certificate of appealability.

A second or successive petition may not be filed in this court unless petitioner first obtains from the United States Court of Appeals for the Ninth Circuit an order authorizing this Court to consider the petition. *See* 28 U.S.C. § 2244(b)(3)(A).

Petitioner has not sought or obtained such an order from the United States Court of Appeals for the Ninth Circuit. Petitioner claims that he has new claims. Be that as it may, he must still obtain the necessary authorization under Section 2244(b) from the

1 United States Court of Appeals before he may proceed. The petition is accordingly
2 DISMISSED without prejudice to refiling if Petitioner obtains the necessary order.


3 Rule 11(a) of the Rules Governing Section 2254 Cases now requires a district
4 court to rule on whether a Petitioner is entitled to a certificate of appealability in the
5 same order in which the petition is decided. Petitioner has failed to make a substantial
6 showing that a reasonable jurist would find this Court's denial of his claim on procedural
7 grounds debatable or wrong. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).
8 Consequently, no certificate of appealability is warranted in this case.

9 Petitioner's application for leave to proceed in forma pauperis (docket number 2)
10 is GRANTED.

11 The Clerk shall enter judgment and close the file.

12 IT IS SO ORDERED.

13 DATED: December 14, 2012

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16 JEFFREY S. WHITE
17 United States District Judge
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2 UNITED STATES DISTRICT COURT
3 FOR THE
4 NORTHERN DISTRICT OF CALIFORNIA

5
6 ANGEL FLORES,
7 Plaintiff,

Case Number: CV12-06141 JSW

CERTIFICATE OF SERVICE

8 v.

9 PEOPLE OF THE STATE OF CALIFORNIA,
10 et al,


11 Defendant.
_____ /

12 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
13 Court, Northern District of California.

14 That on December 19, 2012, I SERVED a true and correct copy(ies) of the attached, by placing
15 said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by
16 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office
17 delivery receptacle located in the Clerk's office.

18 Angel Flores
19 P69076
20 415 U.S. Highway 49 North
Q.A. 33-B
Tutwiler, MI 38963

21 Dated: December 19, 2012


22 Richard W. Wieking, Clerk
By: Jennifer Ottolini, Deputy Clerk
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