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28UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JERRY HAMILTONHAUSEY,

No. C 13-5214 SI (pr)

Petitioner,

**ORDER OF DISMISSAL**

v.

JEFFREY BEARD,

Respondent.

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Jerry Hamiltonhausey, a prisoner at the 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 on his 1991 murder conviction in Alameda County Superior Court. He has challenged that conviction previously. His first federal habeas petition challenging that conviction, *Hamiltonhausey v. Henry*, No. C 96-734 SI, was filed in 1996 and denied in 1997. The U.S. Court of Appeals for the Ninth Circuit denied a certificate of appealability in 1999.

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 ("Ninth Circuit") an order authorizing this court to consider the petition. 28 U.S.C. § 2244(b)(3)(A). Hamiltonhausey has not obtained such an order from the Ninth Circuit. This court will not entertain a new petition from Hamiltonhausey until he first obtains permission from the Ninth Circuit to file such a petition. This action is DISMISSED without prejudice to Hamiltonhausey filing a petition in this court after he obtains the necessary order from the Ninth Circuit.

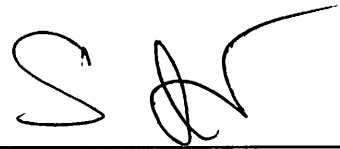
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If Hamiltonhausey wants to attempt to obtain the necessary order from the Ninth Circuit, he should file an "Application For Leave To File Second Or Successive Petition" in the Ninth Circuit (at 95 Seventh Street, San Francisco, CA 94103). A copy of the form application is enclosed with this order for his convenience.

The clerk shall close the file.

IT IS SO ORDERED.

DATED: December   , 2013

  
\_\_\_\_\_  
SUSAN ILLSTON  
United States District Judge

**Form 12. Application for Leave to File Second or Successive Petition**  
**(New, 7/1/02) Under 28 U.S.C. § 2254 or Motion Under 28 U.S.C. § 2255**

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**UNITED STATES COURT of APPEALS**  
**for the NINTH CIRCUIT**  
**95 Seventh Street**  
**San Francisco, California 94103**

**Application for Leave to File Second or Successive Petition**  
**Under 28 U.S.C. § 2254 or Motion Under 28 U.S.C. § 2255**

Docket Number \_\_\_\_\_  
(to be provided by court)

Petitioner's name \_\_\_\_\_

Prisoner registration number \_\_\_\_\_

Address \_\_\_\_\_

**Instructions - Read Carefully**

- (1) This application, whether handwritten or typewritten, must be legible and signed by the petitioner under penalty of perjury. An original and five (5) copies must be provided to the Clerk of the Ninth Circuit. The application must comply with 9th Circuit Rule 22-3, which is attached to this form.
- (2) All questions must be answered concisely. Add separate sheets if necessary.
- (3) The petitioner **shall** serve a copy of this application and any attachments on respondent and must complete and file a proof of service with this application.
- (4) The petitioner **shall** attach to this application copies of the magistrate judge's report and recommendation and the district court's opinion in any prior federal habeas proceeding under 28 U.S.C. § 2254 or § 2255 or state why such documents are unavailable to petitioner.

**You Must Answer the Following Questions:**

- (1) What conviction(s) are you challenging?

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(2) In what court(s) were you convicted of these crime(s)?

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(3) What was the date of each of your conviction(s) and what is the length of each sentence?

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**For questions (4) through (9), provide information separately for each of your previous §§ 2254 or 2255 proceedings. Use additional pages if necessary.**

(4) With respect to **each** conviction and sentence, have you ever filed a petition or motion for habeas corpus relief in federal court under 28 U.S.C. § 2254 or § 2255?

Yes  No

(a) In which federal district court did you file a petition or motion?

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(b) What was the docket number? \_\_\_\_\_

(c) On what date did you file the petition/motion? \_\_\_\_\_

(5) What grounds were raised in your previous habeas proceeding?  
(list all grounds and issues previously raised in that petition/ motion)

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(6) Did the district court hold an evidentiary hearing? Yes  No

(7) How did the district court rule on your petition/motion?

District court **dismissed** petition/motion? If yes, on what grounds?

\_\_\_\_\_

District court **denied** petition/motion;

District court **granted** relief;  
if yes, on what claims and what was the relief?

\_\_\_\_\_

**(Attach copies of all reports and orders issued by the district court.)**

(8) On what date did the district court decide your petition/motion?

\_\_\_\_\_

(9) Did you file an appeal from that disposition? Yes  No

(a) What was the docket number of your appeal? \_\_\_\_\_

(b) How did the court of appeals decide your appeal? \_\_\_\_\_

(10) State concisely each and every ground or issue you wish to raise in your current petition or motion for habeas relief. Summarize briefly the facts supporting each ground or issue.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(11) For each ground raised, was it raised in the state courts? If so, what did the state courts rule and when?

\_\_\_\_\_

(12) For each ground/issue raised, was this claim raised in any prior federal petition/motion? (list each ground separately)

\_\_\_\_\_

\_\_\_\_\_

(13) For each ground/issue raised, does this claim rely on a new rule of constitutional law? (list each ground separately and give case name and citation for each new rule of law)

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(14) For each ground/issue raised, does this claim rely on newly discovered evidence? What is the evidence and when did you discover it? Why has this newly discovered evidence not been previously available to you? (list each ground separately)

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(15) For each ground/issue raised, does the newly discovered evidence establish your innocence? How?

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(16) For each ground/issue raised, does the newly discovered evidence establish a federal constitutional error? Which provision of the Constitution was violated and how?

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(17) Provide any other basis for your application not previously stated.

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Date: \_\_\_\_\_

Signature: \_\_\_\_\_

**Proof of Service on Respondent MUST be Attached.**