Northern District of California

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UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA

THEOPRIC KENT BLOODSAW,

Petitioner,

v.

PHYLLIS J. HAMILTON,

Respondent.

Case No. 15-cv-00804-JD

ORDER GRANTING LEAVE TO DENYING CERTIFICATE OF **APPEALABILITY**

Re: Dkt. No. 2

This is a habeas case filed pro se by a state prisoner. While petitioner sets forth the facts of his conviction, some of the claims in the petition appear to involve conditions of petitioner's confinement, not the fact of his conviction or the length of it, and thus may not be raised in a habeas petition. See Badea v. Cox, 931 F.2d 573, 574 (9th Cir. 1991) (civil rights action is proper method of challenging conditions of confinement); Crawford v. Bell, 599 F.2d 890, 891-92 & n.1 (9th Cir. 1979) (affirming dismissal of habeas petition on basis that challenges to terms and conditions of confinement must be brought in civil rights complaint). Petitioner alleges that Judge Phyllis J. Hamilton and prison officials are conspiring to overthrow the United States government and conspiring against petitioner. Petitioner has filed more than forty previous cases in this court.

Petitioner's previous habeas petition directed to the same conviction was dismissed with prejudice as barred by the statute of limitations, see Bloodsaw v. Woodford, C 06-2929-GHK-E (C.D. Cal. Jan. 19, 2007) (order adopted report and recommendation and dismissing petition with prejudice), so any claims in this petition that might be construed as going to the conviction would be second or successive. Because petitioner has not obtained an order from the court of appeals allowing him to file a second or successive petition, any habeas claims that might be discerned in the petition are barred. See 28 U.S.C. § 2244(b)(3)(A). In short, the petition must be dismissed.

United States District Court Northern District of California

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1	Due to the frivolous nature of this action and the large amount of similar cases and claims filed by
2	petitioner, the case will not be re-designated as a civil rights action with leave to amend.
3	Petitioner's motion for leave to proceed in forma pauperis (Docket No. 2) is GRANTED .
4	The petition is DISMISSED for the reasons set out above. Because reasonable jurists would not
5	find the result here debatable, a certificate of appealability ("COA") is DENIED . <i>See Slack v</i> .
6	McDaniel, 529 U.S. 473, 484-85 (2000) (standard for COA). The clerk shall close the file.
7	IT IS SO ORDERED.
8	Dated: March 23, 2015
9	James Donato
10	United States District Judge
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1 2 3 UNITED STATES DISTRICT COURT 4 NORTHERN DISTRICT OF CALIFORNIA 5 6 THEOPRIC KENT BLOODSAW, 7 Case No. 15-cv-00804-JD Plaintiff, 8 v. **CERTIFICATE OF SERVICE** 9 PHYLLIS J. HAMILTON, 10 Defendant. 11 12 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California. 13 That on 3/23/2015, I SERVED a true and correct copy(ies) of the attached, by placing said 14 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle 15 located in the Clerk's office. 16 17 Theopric Kent Bloodsaw ID: P20045 Pelican Bay State Prison 18 P.O. Box 7500 Crescent City, CA 95532 19 20 Dated: 3/23/2015 21 22 Richard W. Wieking 23 Clerk, United States District Court 24 25 26 LISA K. CLAKK, Deputy Clerk to the Honorable JAMES DONATO 27