

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RODRIGO VASQUEZ HERNANDEZ,
Petitioner,
v.
RANDY GROUNDS,
Respondent.

Case No. 15-cv-03279-TEH

**ORDER GRANTING REQUEST FOR
EXTENSION OF TIME**

On July 21, 2015, this Court ordered Petitioner Rodrigo Vasquez Hernandez to show cause on or before July 31, 2015, as to why this case should not be dismissed as an improperly filed successive petition for writ of habeas corpus. On July 27, 2015, Petitioner acknowledged that this is a successive petition and that he had not received permission to file it from the United States Court of Appeals for the Ninth Circuit. He seeks a 45-day extension of time to respond to the order to show cause so that he has time to request leave to file the petition from the Ninth Circuit.

It is not clear to the Court whether such post hoc permission would satisfy the statutory requirements: “*Before* a second or successive application [for habeas relief] is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.” 28 U.S.C. § 2244(3)(A) (emphasis added). Petitioner has already filed the petition without permission, and the statute appears to require dismissal of this case subject to re-filing if Petitioner subsequently receives an order from the Ninth Circuit.

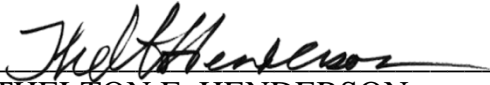
However, out of an abundance of caution, the Court hereby GRANTS Petitioner’s requested extension of time. Petitioner shall show cause on or before **September 15, 2015**, as to why this case should not be dismissed. In his response, Petitioner shall include authority to support the proposition that authorization to file a successive petition may be

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obtained from the court of appeals after the petition has already been filed in the district court.

IT IS SO ORDERED.

Dated: 07/29/15



THELTON E. HENDERSON
United States District Judge