

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

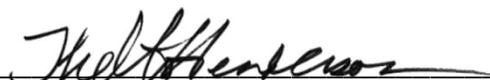
**ORDER DISMISSING HABEAS
PETITION WITHOUT PREJUDICE**

Petitioner Rodrigo Vasquez Hernandez acknowledges that this is a successive petition for writ of habeas corpus. He further acknowledges that, in violation of 28 U.S.C. § 2244(b)(3)(A), he filed this petition without first requesting authorization from the United States Court of Appeals for the Ninth Circuit. Petitioner has now requested authorization from the Ninth Circuit, which has yet to rule on his request, and he asks this Court to defer ruling until after the Ninth Circuit has reached its decision.

However, when a petitioner “neither sought nor received authorization from the Court of Appeals before filing his . . . ‘second or successive’ petition challenging his custody, . . . the District Court [is] without jurisdiction to entertain it.” *Burton v. Stewart*, 549 U.S. 147, 157 (2007) (emphasis added). Accordingly, this petition is DISMISSED without prejudice for lack of jurisdiction. Petitioner may re-file his petition if he subsequently receives authorization from the Ninth Circuit to do so.

IT IS SO ORDERED.

Dated: 09/24/15



THELTON E. HENDERSON
United States District Judge