

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

VANCE NILSEN,
Plaintiff,
v.
DANIEL PARAMO,
Defendant.

Case No. 16-cv-00865-VC

ORDER TO SHOW CAUSE

Re: Dkt. No. 1

Nilsen is ordered to show cause why his habeas petition should not be dismissed for lack of jurisdiction. The petition alleges that Nilsen previously filed at least one other habeas petition contesting the same custodial sentence. Petition at ¶¶13-18; *see also id.* at ¶¶24-28, 31-32. Nilsen's current petition is therefore second or successive. *See Burton v. Stewart*, 549 U.S. 147, 152-53 (2007) (per curiam). Because Nilsen's petition is second or successive, this Court lacks jurisdiction over it unless Nilsen has obtained an order from the U.S. Court of Appeals for the Ninth Circuit authorizing this Court to consider the petition. *Id.* at 157; *see* 28 U.S.C. § 2244(b)(3)(A). Nilsen's petition (which purports to contain a complete record of legal action taken in this case, Petition at ¶33) does not allege that he has obtained such an order. Thus, it appears from the face of the petition that the Court lacks jurisdiction in this case.¹

¹ Nilsen argues that he is actually innocent of special circumstances torture. Although a sufficient showing of actual innocence would excuse his petition's untimeliness, *see McQuiggin v. Perkins*, 133 S. Ct. 1924, 1931-32 (2013), it "[would] not exempt him from the procedural requirements for second or successive petitions, including the statutory obligation to obtain Ninth Circuit authorization to file a second or successive petition." *Spencer v. Valenzuela*, No. 14-cv-5053-GAF, 2014 WL 3362865, at *2 (C.D. Cal. July 8, 2014); *see also Gage v. Chappell*,

Nilsen's response to this order, which should not exceed ten pages, is due on or before April 1, 2016.

IT IS SO ORDERED.

Dated: March 15, 2016



VINCE CHHABRIA
United States District Judge