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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ERIC JOHNSON,

Petitioner,

v.

SECRETARY,

Respondent.

No. C 20-4298 WHA (PR)

ORDER OF DISMISSAL

(Docket Nos. 4, 5)

Petitioner, a California prisoner proceeding pro se, filed this habeas case under 28 U.S.C. § 2254. While incarcerated, petitioner has violated prison rules against indecent exposure on multiple occasions, and state authorities criminally prosecuted him and obtained convictions for such behavior. In 2012, petitioner filed a federal habeas petition challenging one of these convictions — from 2005. *See Johnson v. Director*, No. 12-6393 WHA (PR). That federal petition was dismissed as untimely under the one-year limitations period established by the Anti-terrorism and Effective Death Penalty Act (“AEDPA”) because there was a four-year gap between the end of his direct appeals and the filing of his federal petition. commencement of his collateral challenges to his conviction.

In the instant petition, petitioner challenges a much older conviction for indecent exposure, from 1993. For the same reasons that the prior federal petition challenging a more recent state court conviction was untimely, the instant petition challenging an older conviction is untimely. Specifically, the direct appeals from the conviction challenged herein ended in

1 1994, 26 years before he filed the instant petition and 23 years after the expiration of the
2 limitations period for federal petitions filed prior to AEDPA's enactment in 1996. *See*
3 *Patterson v. Stewart*, 251 F.3d 1243, 1246 (9th Cir. 2001) (a prisoner with a state conviction
4 finalized before April 24, 1996, therefore had until April 24, 1997, to file a federal habeas
5 petition on time). And while petitioner did file habeas petitions in state court challenging the
6 conviction he challenges here, he did not do so until 2019, more than 20 years after the
7 limitations period had expired, and therefore they do not save the instant federal petition from
8 being untimely. *See Ferguson v. Palmateer*, 321 F.3d 820, 823 (9th Cir. 2003) (state habeas
9 petition filed after AEDPA's statute of limitations ended cannot toll the limitations period).

10 For the foregoing reasons, the instant petition is **DISMISSED**. The request to proceed in
11 forma pauperis is **GRANTED**, in light of which the motions for a temporary restraining order
12 pertaining to trust fund documentation are **DENIED** as unnecessary. No certificate of
13 appealability is warranted in this case because a reasonable jurist would not find the dismissal
14 of this petition debatable or wrong. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

15 The clerk shall enter judgment and close the file.

16 **IT IS SO ORDERED.**

17 Dated: November 17, 2020.

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19 WILLIAM ALSUP
20 UNITED STATES DISTRICT JUDGE

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