

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

LYLE NORBERT,

Petitioner,

No. C 11-5329 PJH (PR)

vs.

ORDER OF DISMISSAL

GARY SWARTHOUT, Warden,

Respondent.

This is a habeas case brought pro se by a state prisoner. Petitioner has, however, had a previous case attacking the same judgment, *Norbert v. Felker*, C 07-2074 MMC, in which he was represented by counsel. The petition in that case was denied in an order entered on November 18, 2008. The court denied a certificate of appealability ("COA") and the United States Court of Appeals for the Ninth Circuit also denied a COA, terminating the appeal.

A habeas petitioner may not file a second or successive petition unless he or she first obtains from the appropriate United States Court of Appeals an order authorizing the filing. See 28 U.S.C. § 2244(b)(3)(A). Petitioner has not obtained such an order from the Ninth Circuit. The petition accordingly is **DISMISSED** without prejudice to filing a new petition if petitioner obtains the necessary order.

The clerk shall close the file.

IT IS SO ORDERED.

Dated: January 3, 2012.



PHYLLIS J. HAMILTON
United States District Judge