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\*E-FILED - 8/17/10\*

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

BRADLEY WILLIAM SNYDER,	)	No. C 00-20620-RMW (PR)
	)	
Petitioner,	)	ORDER DENYING MOTION TO
	)	RE-ORDER CASE FOR
vs.	)	DISCOVERY
	)	
C.K. PLILER, Warden,	)	
	)	
Respondent.	)	
_____	)	

Petitioner, a California state prisoner, filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging his state conviction and sentence. On September 30, 2003, the court denied petitioner's petition and entered judgment in favor of respondent. On October 30, 2003, petitioner filed a notice of appeal. On March 3, 2005, the Ninth Circuit Court of Appeal denied petitioner's request for a certificate of appealability. Pending before the court is petitioner's "Notice of Motion to Re-Order Case for Discovery."

In his motion, petitioner asserts that on July 12, 2002, Magistrate Patricia Trumbell referred the case for discovery to Judge Howard R. Lloyd, however, petitioner never received any discovery pursuant to that order. Petitioner also attaches an amended petition to his motion and argues that this amended petition is not a second or successive petition. The court does not agree.

No discovery is warranted in this closed case. Petitioner's motion to re-order the case for

1 discovery is DENIED. Moreover, a district court must dismiss claims presented in a second or  
2 successive habeas petition challenging the same conviction and sentence unless the claims  
3 presented in the previous petition were denied for failure to exhaust. See 28 U.S.C. §  
4 2244(b)(1); Babbitt v. Woodford, 177 F.3d 744, 745-46 (9th Cir. 1999). Additionally, a district  
5 court must dismiss any new claims raised in a successive petition unless the petitioner received  
6 an order from the court of appeals authorizing the district court to consider the petition.

7 Here, the instant petition challenges the same conviction and sentence as petitioner's  
8 earlier habeas action, which was denied on the merits. Petitioner has not presented an order from  
9 the Ninth Circuit Court of Appeals authorizing this court to consider any new claims.  
10 Accordingly, the court will not file petitioner's amended petition unless and until petitioner  
11 obtains the necessary order.

12 No further filings will be entertained in this closed matter.

13 IT IS SO ORDERED.

14 DATED: 8/17/10

  
RONALD M. WHYTE  
United States District Judge