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NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

WILLIE PAUL VIGIL, JR.,)	No. C 09-00704 JF (PR)
Petitioner,)	ORDER OF DISMISSAL; GRANTING MOTION FOR LEAVE TO PROCEED <i>IN FORMA PAUPERIS</i>
vs.)	
JAMES A. YATES, Warden,)	
Respondent.)	(Docket No. 6)

On February 18, 2009, Petitioner, a California prisoner, filed this pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging his 1998 conviction, in Santa Clara County Superior Court. Petitioner challenged this same conviction in a prior petition filed in this court, Vigil v. Garcia, No. 02-1490 MJJ (PR), which was denied on its merits.¹ A second or successive petition challenging the same conviction or parole denial may not be filed in this court under 28 U.S.C. § 2254 unless Petitioner first obtains from the United States Court of Appeals for the Ninth Circuit an order authorizing this

¹Two previous habeas petitions, also challenging the same conviction, were dismissed as a successive petitions pursuant to 28 U.S.C. § 2244(b)(3)(A). See Vigil v. Yates, No. 07-2061 MJJ (PR) and Vigil v. Yates, No. 07-5288 MJJ (PR).

1 court to consider the petition. 28 U.S.C. § 2244(b)(3)(A). Petitioner has filed herein a
2 copy of his January 7, 2009, application to the Ninth Circuit to file a successive petition
3 under 28 U.S.C. § 2244(b)(3)(A), (see Docket No. 2), but Petitioner has not obtained
4 authorization to do so. Accordingly, the instant petition is DISMISSED without prejudice
5 to refiling if petitioner obtains the necessary order from the Ninth Circuit.

6 Petitioner's motion for leave to proceed in forma pauperis (Docket No. 6) is
7 GRANTED.

8 This order terminates Docket No. 6.

9 The Clerk shall close the file.

10 IT IS SO ORDERED.

11 DATED: 6/24/09

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13 JEREMY FOGEL
14 United States District Judge
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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

WILLIE PAUL VIGIL JR.,
Petitioner,

Case Number: CV09-00704 JF

CERTIFICATE OF SERVICE

v.

JAMES A. YATES, Warden,
Respondent.

_____/

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 7/7/09, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Willie Paul Vigil K-90947
Pleasant Valley State Prison
P.O. Box 8501
Facility A-4-135-U
Coalinga, CA 93210

Dated: 7/7/09

Richard W. Wieking, Clerk