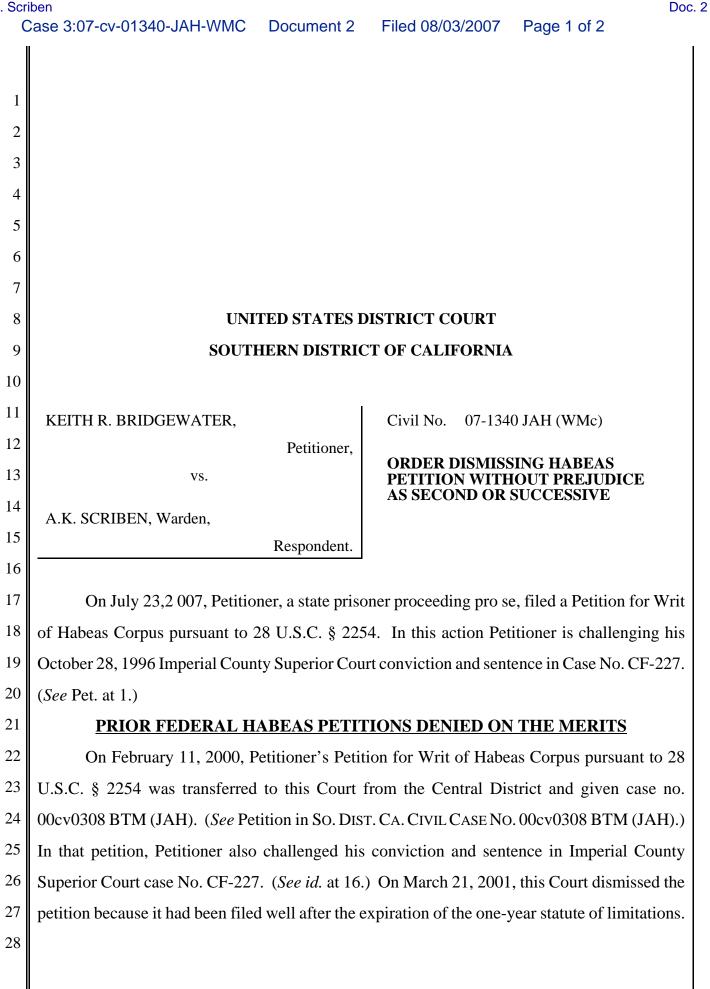
Bridgewater v. Scriben



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(*See* Order filed 3/21/01 in SO. DIST. CA. CIVIL CASE NO. 00cv0308 BTM (JAH).) Petitioner
 has not appealed that determination.

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INSTANT PETITION BARRED BY GATEKEEPER PROVISION

Petitioner is now seeking to challenge the same conviction he challenged in his prior 4 5 federal habeas petition. Unless a petitioner shows he or she has obtained an order from the 6 appropriate court of appeals authorizing the district court to consider a successive petition, the 7 petition may not be filed in the district court. See 28 U.S.C. § 2244(b); Murray v. Greiner, 394 8 F.3d 78 (2d Cir. 2005) (holding that dismissal for failure to comply with one-year statute of limitations renders subsequent petitions challenging the same conviction or sentence "second 9 or successive" under 2244(b)); Reyes v. Vaughn, 276 F.Supp.2d 1027, 1029 (C. D. Cal. 2003) 10 (same). Here, there is no indication the Ninth Circuit Court of Appeals has granted Petitioner 11 12 leave to file a successive petition.

CONCLUSION

Because there is no indication Petitioner has obtained permission from the Ninth Circuit
Court of Appeals to file a successive petition, this Court cannot consider his Petition.
Accordingly, the Court **DISMISSES** this action without prejudice to Petitioner filing a petition
in this court if he obtains the necessary order from the Ninth Circuit Court of Appeals. **THE CLERK OF COURT IS DIRECTED TO MAIL PETITIONER A BLANK APPLICATION TO FOR LEAVE TO FILE SECOND OR SUCCESSIVE PETITION UNDER 28 U.S.C. § 2254.**

The Clerk shall close the file.

IT IS SO ORDERED.

23 DATED: August 2, 2007

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HON. JOHN A. HOUSTON United States District Judge