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1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF CALIFORNIA 10 11 LEVERT HAYES, Jr., Civil No. 09cv1354 L (JMA) 12 Petitioner. ORDER DISMISSING CASE AS 13 VS. ROBERT WONG, Warden, 14 Respondents. 15 16 Petitioner, Levert Hays, Jr., a state prisoner proceeding pro se, has filed a Petition for 17 Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. 18 Petitioner raises a single claim in the present Petition challenging the use of juvenile priors to enhance his sentence in violation of the Sixth Amendment and Apprendi v. New Jersey, 19 20 530 U.S. 466 (2000). (Pet. at 6; Attachment 22(A) at 1.) 21 The Court may dismiss a duplicative petition as frivolous if it "merely repeats pending" or previously litigated claims." Cato v. United States, 70 F.3d 1103, 1105 n.2 (9th Cir. 1995) 22 (citations omitted). Petitioner currently has another case pending in this Court, case number 23 24 08cv1461 H (BLM) in which he challenges the use of his juvenile priors as sentencing 25 enhancements in violation of Apprendi. (See Pet. in case number 08cv1461 H (BLM) at 8; Attachment One at 5.) 26 27 /// 28

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1	Based on the foregoing, the Court DISMISSES this case because the Petition in this case
2	is duplicative of that filed in case number 08cv1461 H (BLM). The Clerk shall close the file.
3	IT IS SO ORDERED.
4	DATED: July 30, 2009
5	M Janes Janes
6	M. James Zoren Z United States District Court Judge
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