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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

11 ANTHONY V. WILLIAMS,
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13 Petitioner,
14 vs.
15 GARY SWARTHOUT, Warden,
16 Respondent.

Civil No. 10-1543 BEN (NLS)

**SUMMARY DISMISSAL OF
SUCCESSIVE PETITION
PURSUANT TO 28 U.S.C.
§ 2244(b)(3)(A) GATEKEEPER
PROVISION**

17 Petitioner, Anthony V. Williams, a state prisoner proceeding pro se, has filed a Petition
18 for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 together with a request to proceed in
19 forma pauperis. The Court does not rule on Petitioner's request to proceed in forma pauperis
20 because this case is summarily dismissed pursuant to 28 U.S.C. § 2244(b)(3)(A) as indicated
21 below.

22 **PETITION BARRED BY GATEKEEPER PROVISION**

23 The instant Petition is not the first Petition for a Writ of Habeas Corpus Petitioner has
24 submitted to this Court challenging his April 23, 1998 conviction in San Diego Superior Court
25 case No. SCN 074831. On July 24, 2002, Petitioner filed in this Court a First Amended Petition
26 for Writ of Habeas Corpus in case No. 02cv1245. In that petition, Petitioner challenged his
27 conviction in San Diego Superior Court case No. SCN 074831 as well. On October 24, 2003,
28 this Court denied the petition on the merits. (See Order filed Oct. 24, 2003 in case No. 02cv1245
IEG (JFS) [Doc. No. 17].) Petitioner appealed that determination. On February 11, 2004, the

1 Ninth Circuit Court of Appeals denied Petitioner's request for a Certificate of Appealability.
2 (*See Order in Williams v. Lamarque*, No. 03-57181 (9th Cir. Feb. 11, 2004) [Doc. No. 22].)

3 Petitioner is now seeking to challenge the same conviction he challenged in his prior
4 federal habeas petition. Unless a petitioner shows he or she has obtained an Order from the
5 appropriate court of appeals authorizing the district court to consider a successive petition, the
6 petition may not be filed in the district court. *See* 28 U.S.C. § 2244(b)(3)(A). Here, there is no
7 indication the Ninth Circuit Court of Appeals has granted Petitioner leave to file a successive
8 petition.

9 **CONCLUSION**

10 Because there is no indication Petitioner has obtained permission from the Ninth Circuit
11 Court of Appeals to file a successive petition, this Court cannot consider his Petition.
12 Accordingly, the Court **DISMISSES** this action without prejudice to Petitioner filing a petition
13 in this court if he obtains the necessary order from the Ninth Circuit Court of Appeals. For
14 Petitioner's convenience, the Clerk of Court shall attach a blank Ninth Circuit Application for
15 Leave to File Second or Successive Petition.

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17 **IT IS SO ORDERED.**

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19 DATED: August 8, 2010

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22 Roger T. Benitez
23 United States District Judge
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