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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DEAUNDRAY GASTON,

Petitioner,

vs.

BRIAN E. WILLIAMS, SR., et al.,

Respondents.

Case No. 2:13-cv-00839-JAD-CWH

ORDER

Petitioner has paid the filing fee. The court has reviewed the petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, and the court will refer this action to the United States Court of Appeals for the Ninth Circuit because the petition is successive.

Petitioner challenges the validity of the judgment of conviction in *State v. Gaston*, Case No. 92C107652, in the Eighth Judicial District Court of the State of Nevada. Petitioner was convicted of first-degree murder with the use of a deadly weapon. Petitioner challenged the same judgment of conviction in *Gaston v. Cox*, Case No. 2:04-cv-00076-RLH-LRL. The court dismissed that action because it was untimely pursuant to 28 U.S.C. § 2244(d). Petitioner appealed that dismissal. Both this court and the Court of Appeals for the Ninth Circuit denied a certificate of appealability.

“[D]ismissal of a section 2254 habeas petition for failure to comply with the statute of limitations renders subsequent petitions second or successive for purposes of . . . 28 U.S.C. § 2244(b).” *McNabb v. Yates*, 576 F.3d 1028, 1030 (9th Cir. 2009). Petitioner must first obtain authorization from the court of appeals before this court can consider his petition. 28 U.S.C. § 2244(b)(3).

