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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

Jeffrey Lynn Franklin,  
Petitioner

v.

Jerry Howell, et al.,  
Respondents

Case No.: 2:18-cv-00444-JAD-NJK

**Order to Show Cause**

[ECF Nos. 2, 4, 9]

Pro se plaintiff Jeffrey Lynn Franklin petitions for a writ of habeas corpus<sup>1</sup> and applies to proceed *in forma pauperis*.<sup>2</sup> This is Franklin's second pauper application (because I denied the first as incomplete). Having reviewed Franklin's financial documents, I find that he is unable to pay the filing fee, and I grant him pauper status.

I have also reviewed his petition under Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, and it appears that this is a successive petition. Franklin challenged his conviction once before in *Franklin v. Nevada*, Case No. 3:10-cv-00020-HDM-VPD. The court denied that petition on its merits,<sup>3</sup> and the Ninth Circuit denied Franklin a certificate of appealability.<sup>4</sup> This petition, which challenges the same conviction, is therefore a second or successive petition under 28 U.S.C. § 2244(b).

Franklin must obtain authorization from the Ninth Circuit before this court can consider his petition.<sup>5</sup> Nothing in the documents that Franklin has filed indicates that he has received that authorization. Franklin will need to show cause why I should not dismiss this action as an unauthorized, successive petition.

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<sup>1</sup> ECF No. 1-1.

<sup>2</sup> ECF No. 9.

<sup>3</sup> See case no. 3:10-cv-00020-HDM-VPD at ECF No. 25.

<sup>4</sup> *Id.* at ECF No. 30.

<sup>5</sup> 28 U.S.C. § 2244(b)(3).


1           Accordingly, IT IS HEREBY ORDERED that Franklin's application to proceed *in forma*  
2 *pauperis* [ECF No. 9] is **GRANTED**. Franklin need not pay the \$5.00 filing fee.

3           The **Clerk of Court** is directed to **DETACH and FILE** the petition for a writ of habeas  
4 corpus [ECF No. 1-1].

5           IT IS FURTHER ORDERED that Franklin **has until July 23, 2018, to show cause why**  
6 **this action should not be dismissed as an unauthorized second or successive petition**. If  
7 Franklin does not comply with this court-ordered deadline, this action will be **DISMISSED**  
8 without further prior notice.

9           IT IS FURTHER ORDERED that Franklin's motions for appointment of counsel [ECF  
10 **Nos. 2, 4] are DENIED** without prejudice to his ability to refile them if he can show cause why  
11 this petition shouldn't be dismissed.

12           Dated: June 22, 2018

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15 U.S. District Judge Jennifer A. Dorsey  
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