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UNITED STATES DISTRICT
COURT DISTRICT OF NEVADA

KEVIN RAYHOLMES,
Petitioner,
v.
ISIDRO BACA, et al.,
Respondents.

Case No. 3:16-cv-00306-HDM-VPC

ORDER

The court instructed petitioner to show cause why this action should not be dismissed as a second or successive petition for which he has not obtained authorization to file. ECF No. 5. Petitioner has filed a showing of cause. ECF No. 6. The court is not persuaded, and the court dismisses this action.

Petitioner's sole argument regarding the successive-petition bar is that none of the claims he is presenting now were presented in Holmes v. Helling, Case No. 3:04-cv-00098-PMP-VPC, which the court decided on its merits, and thus this is not a second or successive petition. Petitioner is wrong. The ruling on the merits in Holmes v. Helling means that this is a second or successive petition. New grounds are subject to requirements before this court can consider them. 28 U.S.C. § 2244(b)(2). Furthermore, petitioner must first obtain authorization from the court of appeals before he can file a successive petition in this court. 28 U.S.C. § 2244(b)(3).

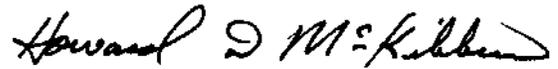
1 Petitioner has failed to obtain that authorization.

2 Reasonable jurists would not find the court's conclusion to be debatable or wrong, and
3 the court will not issue a certificate of appealability.

4 IT THEREFORE IS ORDERED that this action is **DISMISSED** as a second or
5 successive petition. The clerk of the court shall enter judgment accordingly and close this
6 action.

7 IT FURTHER IS ORDERED that a certificate of appealability will not issue.

8 DATED: April 10, 2018.

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11 Howard D. McKibben
12 Senior United States District Judge
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