

**UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA**

Anthony M. King v. Edward Borla, Warden

No. CV 25-8807-RGK(E) · No. No. CV 25-8807-RGK(E); 2:25-cv-08807 · Decided October 3, 2025

SUMMARY

The United States District Court for the Central District of California dismissed Anthony M. King’s successive petition for a writ of habeas corpus under 28 U.S.C. § 2254. The court held that King had not obtained authorization from the Ninth Circuit to file the petition, which challenged the same state criminal case previously litigated in federal court, and dismissed the petition without prejudice.

OPINION

1 2 3 UNITED STATES DISTRICT COURT 4 CENTRAL DISTRICT OF CALIFORNIA 5 6
ANTHONY M. KING, No. CV 25-8807-RGK(E) 7 Petitioner, 8 v. ORDER OF DISMISSAL 9
EDWARD BORLA, WARDEN, 10 Respondent. 11 12 On September 15, 2025, Petitioner filed a
“Petition Under 28 U.S.C. § 2254 for Writ of 13 Habeas Corpus” (“the Petition”).

The Petition challenges a Superior Court criminal case, case 14 number VA091025-01 (Petition at
1). Petitioner previously challenged the same Superior 15 Court case in a habeas petition filed in
this Court in 2009. See King v. Cate, CV 09-1820- 16 RGK(E) (“the prior habeas action”).

The Magistrate Judge in the prior habeas action 17 recommended denial and dismissal of the prior
petition with prejudice as untimely. On 18 September 29, 2009, the District Judge filed an order
approving and adopting this 19 recommendation.

On the same day, this Court entered Judgment in the prior habeas action, 20 denying and
dismissing the petition with prejudice. 21 22 The Court must dismiss the present Petition in
accordance with 28 U.S.C. section 23 2244(b) (as amended by the “Antiterrorism and Effective
Death Penalty Act of 1996”). Section 24 25 2244(b) requires that a petitioner seeking to file a
“second or successive” habeas petition first 26 obtain authorization from the Court of Appeals.

See Burton v. Stewart, 549 U.S. 147, 157 27 (2007) (where petitioner did not receive authorization
from Court of Appeals before filing 1 || mechanism set forth in § 2244(b) requires the permission
of the court of appeals before ‘a 2 || second or successive habeas application under § 2254’ may be
commenced”). A petition 3 || need not be repetitive to be “second or successive,” within the
meaning of 28 U.S.C. section 4 || 2244(b).

See, e.g., Thompson v. Calderon, 151 F.3d 918, 920-21 (9th Cir.), cert. denied, 524 5 || U.S. 965
(1998); Calbert v. Marshall, 2008 WL 649798, at *2-4 (C.D. Cal. Mar. 6, 2008). The 6 || dismissal

of a habeas petition as barred by the statute of limitations “constitutes an 7 || adjudication on the merits that renders future petitions under § 2254 challenging the same 8 || conviction ‘second or successive’ petitions under § 2244(b).” McNabb v. Yates, 576 F.3d 9 || 1028, 1030 (9th Cir.

2009). Petitioner evidently has not yet obtained authorized from the 10 || Ninth Circuit Court of Appeals. Consequently, this Court cannot entertain the present Petition. 11 || See Burton v. Stewart, 549 U.S. at 157. 12 13 For all of the foregoing reasons, the Petition is denied and dismissed without prejudice. 14 15 LET JUDGMENT BE ENTERED ACCORDINGLY. 16 17 DATED: October 3, 2025.

18 j A Rectan 19 UNITED STATES MAGISTRATE JUDGE 20 21 || PRESENTED this 3rd day 22 || of October, 2025, by: 23 54 | ————_—_—_S_ ____ CHARLES F. EICK 95 || UNITED STATES MAGISTRATE JUDGE 26 27 28