

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

Raymond Glen Berry v. Marales, Warden

No. CV 25-8197-GW(E) (C.D. Cal. Sept. 10, 2025) · No. No. CV 25-8197-GW(E) · Decided September 10,
2025

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 CENTRAL DISTRICT OF
CALIFORNIA 10 11 RAYMOND GLEN BERRY, No. CV 25-8197-GW(E) 12 Petitioner, 13 v.
ORDER OF DISMISSAL 14 MARALES, WARDEN, 15 Respondent. 16 17 On August 25, 2025,
Petitioner filed a “Petition for Writ of Habeas Corpus by a Person 18 in State Custody.” The
Petition challenges Petitioner’s conviction and sentence in Los 19 Angeles Superior Court case
number BA 397700-01 (Petition at 2).

Petitioner previously 20 challenged the same conviction and sentence in a habeas petition filed in
this Court in 2017. 21 See *Berry v. Davey*, No. CV 17-3680-GW(E) (“the prior habeas petition”).
By Judgment 22 entered February 1, 2018, this Court denied and dismissed the prior habeas
petition with 23 prejudice. 24 25 The Court must dismiss the present Petition in accordance with
28 U.S.C. section 26 2244(b) (as amended by the “Antiterrorism and Effective Death Penalty Act
of 1996”).

Section 27 2244(b) requires that a petitioner seeking to file a “second or successive” habeas
petition first 1 (2007) (where petitioner did not receive authorization from Court of Appeals before
filing 2 second or successive petition, “the District Court was without jurisdiction to entertain [the
3 petition]”); *Barapind v. Reno*, 225 F.3d 1100, 1111 (9th Cir.

2000) (“the prior-appellate-review 4 mechanism set forth in § 2244(b) requires the permission of
the court of appeals before ‘a 5 second or successive habeas application under § 2254’ may be
commenced”). A petition 6 need not be repetitive to be “second or successive,” within the
meaning of 28 U.S.C. section 7 2244(b). See, e.g., *Thompson v. Calderon*, 151 F.3d 918, 920-21
(9th Cir.), cert. denied, 524 8 U.S. 965 (1998); *Calbert v. Marshall*, 2008 WL 649798, at *2-4
(C.D.

Cal. Mar. 6, 2008). 9 Petitioner evidently has not yet obtained authorization from the Ninth Circuit
Court of 10 Appeals.¹ Consequently, this Court cannot entertain the present Petition.² See *Burton*
v. 11 Stewart, 549 U.S. at 157; see also *Remsen v. Att’y Gen. of Calif.*, 471 Fed. App’x 571, 571
12 (9th Cir. 2012) (if a petitioner fails to obtain authorization from the Court of Appeals to file a
13 second or successive petition, “the district court lacks jurisdiction to consider the petition and
14 should dismiss it.”) (citation omitted).

15 /// 16 /// 17 /// 18 /// 19 /// 20 /// 21 /// 22 /// 23 24 1 The docket for the United States Court of Appeals for the Ninth Circuit, available 25 on the Pacer database on www.pacer.gov, does not reflect that anyone named Raymond Berry has received authorization to file a second or successive petition. See *Mir v. Little* 26 Company of Mary Hosp., 844 F.2d 646, 649 (9th Cir.

1988) (court may take judicial notice of court records). 27 2 The Court previously rebuffed Petitioner's attempt to bring a second or successive petition. See *Berry v. Johnson*, No. CV 20-6863-GW(E). 1 For all of the foregoing reasons, the Petition is denied and dismissed without prejudice. 2 3 LET JUDGMENT BE ENTERED ACCORDINGLY. 4 5 DATED: September 10, 2025.

6 Afrg Be Ve 7 GEORGE H. WU UNITED STATES DISTRICT JUDGE 8 9 || PRESENTED this 8th day of 10 || September, 2025, by: 11 12 IS/ CHARLES F. EICK 13 || UNITED STATES MAGISTRATE JUDGE 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28