

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

Clarence A. Gipbsin v. United States, et al.

Gipbsin · No. 2:25-cv-3288-ODW-RAO · Decided April 22, 2025

OPINION

Clarence A. Gipbsin v. United States

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 CENTRAL DISTRICT OF CALIFORNIA

10 11 CLARENCE A. GIPBSIN, Case No. 2:25-cv-3288-ODW-RAO 12 Petitioner,

ORDER SUMMARILY DISMISSING

13 v. SUCCESSIVE PETITION FOR WRIT

OF HABEAS CORPUS FOR LACK

14 UNITED STATES, et al., OF JURISDICTION AND DENYING

CERTIFICATE OF APPEALABILITY

15 Respondents. 16

17 I. BACKGROUND

18 On March 27, 2025,¹ Petitioner Clarence A. Gipbsin (“Petitioner”), proceeding 19 pro se and
in forma pauperis, constructively filed a Petition for Writ of Habeas 20 Corpus by a Person in
State Custody (“Petition”) pursuant to 28 U.S.C. § 2254. 21 Petitioner seeks habeas relief from
state custody arising from his 1991 conviction in 22 Los Angeles County Superior Court, case no.
BAO16268-02 (“1991 conviction”). 23 Dkt. No. 1 (“Pet.”) at 2. 24 25 26 1 Under the “mailbox
rule,” when a pro se prisoner gives prison authorities a pleading to mail, the court deems the
pleading constructively “filed” on the date it is signed. 27 *Roberts v. Marshall*, 627 F.3d 768, 770
n.1 (9th Cir. 2010). The Petition was filed 28 in this Court on April 7, 2025. 1 The records of this
Court establish that Petitioner has filed multiple habeas 2 petitions related to his 1991 conviction
in this District prior to the instant Petition. 3 Several of these prior petitions were dismissed either
on the merits or as second or 4 successive petitions without authorization from the Ninth Circuit.
See, e.g., *Gipbsin v. L.A. Dist. Att’y*, Case No. 2:18-cv-102 (C.D. Cal. Jan. 22, 2018) (“2018
Petition”); 6 *Gipbsin v. People*, Case No. 2:17-cv-2656 (C.D. Cal. Apr. 28, 2017) (“2017 7
Petition”); *Gipbsin v. Louis*, Case No. 2:13-cv-3000 (C.D. Cal. June 21, 2013) (“2013 8
Petition”). The Court dismissed with prejudice Petitioner’s 2013 Petition as time 9 barred. See
Order Dismissing Habeas Petition as Time-Barred, *Gipbsin v. Louis*, No. 10 2:13-cv-3000 (C.D.
Cal. June 21, 2013), ECF No. 12. The Court dismissed the 2017 11 Petition and 2018 Petition as

successive. See Order Summarily Dismissing 12 Successive Petition for Writ of Habeas Corpus for Lack of Jurisdiction and Denying 13 Certificate of Appealability, *Gipbsin v. People*, No. 2:17-cv-2656 (C.D. Cal. Apr. 28, 14 2017), ECF No. 5; Order Summarily Dismissing Successive Petition for Writ of 15 Habeas Corpus for Lack of Jurisdiction and Denying Certificate of Appealability 16 *Gipbsin v. L.A. Dist. Att’y*, No. 2:18-cv-102 (C.D. Cal. Jan. 22, 2018), ECF No. 4. 17 A review of the instant Petition demonstrates that Petitioner again seeks federal 18 habeas relief from his state custody arising from his 1991 conviction. Pet. at 2–6. 19 The Petition fails to establish that the Ninth Circuit has authorized Petitioner to bring 20 a successive petition in this Court. For the reasons stated below, the Court dismisses 21 the Petition for lack of jurisdiction.

22 II. STANDARD OF REVIEW

23 A district court may rely on the petition and any attached exhibits to dismiss a 24 petition that plainly shows that the petitioner is not entitled to habeas relief. Rule 4, 25 Rules Governing Section 2254 Cases in the United States District Courts. Because 26 a district court’s ability to hear a second or successive petition is jurisdictional, the 27 court may sua sponte dismiss the petition on that ground. See *Burton v. Stewart*, 549 28 U.S. 147, 152–53 (2007); *Day v. McDonough*, 547 U.S. 198, 205–06 (2006).

1 III. DISCUSSION

2 Habeas petitions filed after April 24, 1996, are governed by the Antiterrorism 3 and Effective Death Penalty Act (“AEDPA”). *Jones v. Davis*, 8 F.4th 1027, 1035 4 (9th Cir. 2021). The United States Supreme Court has explained: 5 The Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) established a stringent set of procedures that a 6 prisoner “in custody pursuant to the judgment of a State 7 court,” 28 U.S.C. § 2254(a), must follow if he wishes to file a “second or successive” habeas corpus application 8 challenging that custody, § 2244(b)(1). In pertinent part, 9 before filing the application in the district court, a prisoner “shall move in the appropriate court of appeals for an order 10 authorizing the district court to consider the application.” 11 § 2244(b)(3) (A). A three-judge panel of the court of appeals may authorize the filing of the second or successive 12 application only if it presents a claim not previously raised 13 that satisfies one of the two grounds articulated in § 2244(b)(2). § 2244(b)(3)(C); *Gonzalez v. Crosby*, 545 14 U.S. 524, 529-530, 125 S. Ct. 2641, 162 L. Ed. 2d 480 15 (2005); see also *Felker v. Turpin*, 518 U.S. 651, 656-657, 664, 116 S. Ct. 2333, 135 L. Ed. 2d 827 (1996). 16 17 *Burton v. Stewart*, 549 U.S. 147, 152–53 (2007). 18 Because Petitioner’s claims in the instant Petition challenge the same 1991 19 conviction previously challenged on the merits in a prior habeas action, the Court 20 finds that the instant Petition is clearly second or successive. Moreover, the Petition 21 and records of the Ninth Circuit establish that Petitioner has not sought and been 22 granted authorization by the Ninth Circuit to file a successive petition for the purpose 23 of raising his present claims. Petitioner must first seek authorization from the Ninth 24 Circuit to file his petition. *Balbuena v. Sullivan*, 980 F.3d 619, 634–35 (9th Cir. 25 2020). 26 For these reasons, the Court finds that it lacks jurisdiction to consider the 27 Petition. The reference to the Magistrate

Judge is therefore vacated, and the Petition 28 is dismissed for lack of jurisdiction. Burton, 549 U.S. at 152–53. Any pending 1 motions are denied as moot, and the Clerk is directed to enter judgment dismissing 2 the Petition.

3 IV. CERTIFICATE OF APPEALABILITY

4 Under AEDPA, a state prisoner seeking to appeal a district court’s final order 5 in a habeas corpus proceeding must obtain a Certificate of Appealability (“COA”) 6 from the district judge or a circuit judge. 28 U.S.C. § 2253(c)(1)(A). A COA may 7 issue “only if the applicant has made a substantial showing of the denial of a 8 constitutional right.” 28 U.S.C. § 2253(c)(2). “A petitioner satisfies this standard by 9 demonstrating that jurists of reason could disagree with the district court’s resolution 10 of his constitutional claims or that jurists could conclude the issues presented are 11 adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 12 U.S. 322, 327 (2003). 13 When the Court dismisses a petition on procedural grounds, it must issue a 14 COA if the petitioner shows: (1) “that jurists of reason would find it debatable 15 whether the petition states a valid claim of the denial of a constitutional right”; and 16 (2) “that jurists of reason would find it debatable whether the district court was 17 correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 478 (2000). 18 Here, the Court is dismissing the Petition without prejudice because it is a 19 successive petition without proper authorization from the Ninth Circuit. Since the 20 Petition is patently a successive petition, Petitioner cannot make the requisite 21 showing that jurists of reason would find it debatable whether the district court was 22 correct in its procedural ruling. 23 /// 24 /// 25 /// 26 /// 27 /// 28 ///

1] Vv. CONCLUSION

2 Based on the foregoing, IT IS ORDERED THAT: 3 1. The Petition is DISMISSED without prejudice for lack of jurisdiction; and 4 2. A Certificate of Appealability is DENIED. 5 ~ 6 || DATED: April 22, 2025 dyed 7 □

OTIS D. WRIGHT II

8 UNITED STATES DISTRICT JUDGE

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