

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Petitioner,)
vs.) Case No. CV-
Respondents.)
)
) ORDER DISMISSING SUCCESSIVE
) PETITION FOR WRIT OF
) HABEAS CORPUS PURSUANT
) TO 28 U.S.C. § 2254
)
)

Petitioner _____ has filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner states in his petition that he has previously commenced a § 2254 action challenging this same conviction. That action was decided on the merits on _____ (docket #), and affirmed on appeal on _____ (docket #). Under the provisions of 28 U.S.C. §§ 2244 & 2254, petitioner is required to obtain a certification from the Ninth Circuit Court of Appeals that the successive motion contains “(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or (2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme court, that was previously unavailable.” Petitioner must obtain the requisite authorization from the appellate court before this court may review the validity of the grounds for relief stated in the successive petition. *See* amendments to 28 U.S.C. §§ 2244(b) & 2254, eff. April 24, 1996. This procedural requirement of obtaining permission from the appellate court before filing a successive petition has been found to be constitutional. *Felker v. Turpin*, ___ U.S. ___, 116 S. Ct. 2333 (1996). Accordingly, the present petition must be dismissed.

IT IS THEREFORE **ORDERED** that the petition for writ of habeas corpus (#) pursuant to 28 U.S.C. § 2254 is DENIED without prejudice to renewal should petitioner obtain the requisite permission from the Ninth Circuit Court of Appeals to pursue this successive action.

Dated this ___ day of _____, 200__.

UNITED STATES DISTRICT JUDGE