FILED: November 30, 2018

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-6840
(1:18-cv-00761-CMH-IDD)

WALTER DOUGLAS JENKINS

Petitioner - Appellant

v.

DAVID ZOOK, Warden

Respondent - Appellee

J U D G M E N T

In accordance with the decision of this court, a certificate of appealability is denied and the appeal is dismissed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

"APPENDIX A."

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

Walter Douglas Jenkins,
Petitioner,

v.

David Zook,
Respondent.

1:18cv761 (CMH/IDD)

ORDER

Walter Douglas Jenkins, a Virginia inmate proceeding pro se, has filed a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, challenging his conviction of first degree murder and display of a firearm entered in the Circuit Court for Prince William County. Petitioner has paid the filing fee. Petitioner previously filed a § 2254 habeas corpus petition regarding this conviction, which was reviewed and dismissed on the merits. See Jenkins v. Pearson, 1:12cv885 (E.D. Va. Aug. 28, 2013). Title 28 U.S.C. § 2244(b) compels a district court to dismiss a second or successive habeas corpus petition absent an order from a panel of the Court of Appeals authorizing the district court to review such a petition. The Court of Appeals will only authorize such a review if a petitioner can show that (1) the claim has not been previously presented to a federal court on habeas corpus, and (2) the claim relies on a new rule of constitutional law made retroactive to cases on collateral review by the Supreme Court, or the claim relies on facts which could not have been previously discovered by due diligence and which show "by clear and convincing evidence that, but for constitutional error, no reasonable fact finder would have found the applicant guilty of the underlying offense." 28 U.S.C. § 2244(b)(2)(B)(ii). Petitioner has neither provided an appropriate order from the United States

APPENDIX [redacted]

Court of Appeals for the Fourth Circuit nor demonstrated his compliance with the standard for obtaining a certificate from the Fourth Circuit pursuant to § 2244(b)(2)(B). Therefore, this Court lacks jurisdiction to consider this successive petition.

Accordingly, it is hereby

ORDERED that this action be and is DISMISSED WITHOUT PREJUDICE to petitioner's right to move a panel of the United States Court of Appeals for the Fourth Circuit for an order authorizing this Court to consider the petition.

To appeal, petitioner must file a written notice of appeal with the Clerk's Office within thirty (30) days of the date of this Order. A written notice of appeal is a short statement stating a desire to appeal this Order and noting the date of the Order petitioner wants to appeal. Petitioner need not explain the grounds for appeal until so directed by the court. Petitioner must also request a certificate of appealability from a circuit justice or judge. See 28 U.S.C. § 2253 and Fed. R. App. P. 22(b). This Court expressly declines to issue such a certificate.

The Clerk is directed to send a copy of this Order and a standard § 2244 form to petitioner and to close this civil case.

Entered this 2nd day of July 2018.

Claude M. Hilton
United States District Judge

Alexandria, Virginia

APPENDIX D

Additional material from this filing is available in the Clerk's Office.