

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
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NOTICE OF ISSUANCE OF MANDATE

November 20, 2018

To: Shig Yasunaga
UNITED STATES DISTRICT COURT
Central District of Illinois
Peoria, IL 61602-0000

No. 18-1056	WILLIE WHITE, Petitioner - Appellant v. JUSTIN HAMMERS, Respondent - Appellee
Originating Case Information:	
District Court No: 1:17-cv-01458-JES Central District of Illinois District Judge James E. Shadid	

Herewith is the mandate of this court in this appeal, along with the Bill of Costs, if any. A certified copy of the opinion/order of the court and judgment, if any, and any direction as to costs shall constitute the mandate.

RECORD ON APPEAL STATUS:

No record to be returned

NOTE TO COUNSEL:

If any physical and large documentary exhibits have been filed in the above-entitled cause, they are

Appendix A

United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

Submitted October 16, 2018

Decided October 29, 2018

Before

JOEL M. FLAUM, *Circuit Judge*

ILANA DIAMOND ROVNER, *Circuit Judge*

No. 18-1056

WILLIE WHITE,
Petitioner-Appellant,

v.

JUSTIN HAMMERS,
Respondent-Appellee.

Appeal from the United States District
Court for the Central District of Illinois.

No. 17-cv-1458

James E. Shadid,
Chief District Judge.

ORDER

Willie White has filed a notice of appeal from the dismissal of his petition under 28 U.S.C. § 2254, which we construe as an application for a certificate of appealability. We have reviewed the final order of the district court and the record on appeal. We find no substantial showing of the denial of a constitutional right. *See* 28 U.S.C. § 2253(c)(2).

We clarify, however, that White's § 2254 petition was not an unauthorized successive collateral attack. White first filed an identical petition in April 2017 in the Northern District of Illinois. The petition now before us, filed in October 2017 in the Central District of Illinois, was dismissed in December 2017, while the first was pending. Indeed, the first petition was not adjudicated until April 2018. Under these circumstances, the second petition was not "successive." *See Kuhlmann v. Wilson*, 477 U.S. 436, 444 n.6 (1986) (requiring adjudication on the merits in prior habeas

"Appendix B"

proceeding to trigger ban on successive actions). Nonetheless, dismissal was warranted because the second petition was duplicative.

Accordingly, the request for a certificate of appealability is DENIED.

Joachim, Loretta

From: ECF_Returns@ilcd.uscourts.gov
Sent: Monday, April 23, 2018 2:39 PM
To: ECF_Notices@ilcd.uscourts.gov
Subject: [External] Activity in Case 1:17-cv-01458-JES White v. Hammer Order

This is an automatic e-mail message generated by the CM/ECF system. Please **DO NOT RESPOND** to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court

CENTRAL DISTRICT OF ILLINOIS

Notice of Electronic Filing

- * The following transaction was entered on 4/23/2018 at 2:38 PM CDT and filed on 4/23/2018
- * **Case Name:** White v. Hammer
- * **Case Number:** 1:17-cv-01458-JES
- * **Filer:**
- * **WARNING: CASE CLOSED on 12/05/2017**
- * **Document Number:** No document attached

Docket Text:

TEXT ORDER: The Seventh Circuit has directed this Court to "proceed to a determination [of] whether a certificate of appealability should issue." (D. [13]). This Court reiterates the findings from its January 9, 2018 text order: "[r]ule 11(a) of the Rules Governing § 2254 Proceedings directs district courts to either issue or deny a certificate of appealability when entering a final order adverse to the applicant. To obtain a certificate of appealability, a petitioner must make "a substantial showing of the denial of a constitutional right." 28 U.S.C § 2253(c)(2). Where a district court has rejected the constitutional claims on the merits, the showing required to satisfy § 2253(c) is straightforward: The petitioner must demonstrate that reasonable jurists would find the district courts assessment of the constitutional claims debatable or wrong. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Given the language of 28 U.S.C. § 2244(b)(1), no reasonable jurist could conclude that the Petition before this Court entitles the Petitioner to relief under § 2254. Accordingly, this Court will not issue a certificate of appealability." The Clerk is directed to mail the Petitioner a copy of this text order. Entered by Chief Judge James E. Shadid on 4/23/2018. (RT, ilcd)

1:17-cv-01458-JES Notice has been electronically mailed to:

Appendix C

Orders on Motions

1:17-cv-01458-JES White v.
Hammer

18,HABEAS,PROSE

U.S. District Court

CENTRAL DISTRICT OF ILLINOIS

Notice of Electronic Filing

The following transaction was entered on 12/5/2017 at 12:23 PM CST and filed on 12/5/2017

Case Name: White v. Hammer

Case Number: 1:17-cv-01458-JES

Filer:

WARNING: CASE CLOSED on 12/05/2017

Document Number: No document attached

Docket Text:

TEXT ORDER entered by Chief Judge James E. Shadid on 12/5/2017. The Court is in receipt of [1] Petitioner's §2254 Petition, filed 10/12/2017. The Petitioner's filing is a successive §2254 petition. He already filed this same Petition in the Northern District of Illinois on 4/10/2017. (See case no. 17-2724 NDIL). "A claim presented in a second or successive habeas corpus application under section 2254 that was presented in a prior application shall be dismissed." 28 U.S.C. § 2244(b)(1). Accordingly, the Court **DISMISSES** [1], the Petitioner's Petition. The Court further finds [2] Petitioner's Motion for Leave to File Habeas Corpus Petition and [3] Petitioner's Motion to Advance Habeas Corpus Petition **MOOT**. This matter is hereby terminated. (VH, ilcd)

1:17-cv-01458-JES Notice has been electronically mailed to:

1:17-cv-01458-JES Notice has been delivered by other means to:

Willie White
N43648
ILLINOIS RIVER
Illinois River Correctional Center
Inmate Mail/Parcels
PO Box 999
Canton, IL 61520

Appendix D

12/5/2017, 12:23 PM

UNITED STATES DISTRICT COURT

for the
Central District of Illinois**FILED**

DEC 05 2017

CLERK OF COURT
U.S. DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS

Willie White

Petitioner

vs.

Case Number: 17-cv-1458

Justine Hammer

Respondent

JUDGMENT IN A CIVIL CASE

DECISION BY THE COURT. This action came before the Court and a decision has been rendered.

IT IS ORDERED AND ADJUDGED The Petitioner's filing is a successive §2254 petition. He already filed this same Petition in the Northern District of Illinois on 4/10/2017. (See case no. 17-2724 NDIL). "A claim presented in a second or successive habeas corpus application under section 2254 that was presented in a prior application shall be dismissed." 28 U.S.C. § 2244(b)(1). Accordingly, the Court DISMISSES [1], the Petitioner's Petition.

Dated: 12/5/2017

s/ Kenneth A. Wells

Kenneth A. Wells

Clerk, U.S. District Court

Appendix D

Other Events

1:17-cv-01458-JES White v.
Hammer **CASE CLOSED on
12/05/2017**

18,CLOSED,HABEAS,PROSE

U.S. District Court**CENTRAL DISTRICT OF ILLINOIS****Notice of Electronic Filing**

The following transaction was entered on 12/5/2017 at 3:15 PM CST and filed on 12/5/2017

Case Name: White v. Hammer

Case Number: 1:17-cv-01458-JES

Filer:

WARNING: CASE CLOSED on 12/05/2017

Document Number: 6

Docket Text:

JUDGMENT entered. (VH, ilcd)

1:17-cv-01458-JES Notice has been electronically mailed to:

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Willie White
N43648
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PO Box 999
Canton, IL 61520

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1068668610 [Date=12/5/2017] [FileNumber=3103376-0
][9d951fe3ab99b8aa8921ac363fe3fb4c7b27553f2e015fd68b15034a3a259036214
06c3d3aaef97d0c8a91e5d16845bf8a41ee48896b4af0bbe0df1da3545398]]

Appendix D