

ALD-149

April 4, 2019

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 18-3767

WAYNE PETTAWAY, a/k/a Wayne Pettigrew, Appellant

vs.

SUPERINTENDENT ALBION SCI

(W.D. PA. CIV. NO. 2-18-cv-01467)

Present: MCKEE, SHWARTZ and BIBAS, Circuit Judges

Submitted is appellant's application for a certificate of appealability under 28 U.S.C. § 2253(c)(1), which also contains a request for appointment of counsel

in the above captioned case.

Respectfully,

Clerk

ORDER

The foregoing application for a certificate of appealability is denied. Reasonable jurists would not find it debatable, Slack v. McDaniel, 529 U.S. 473, 484 (2000), that appellant's November 2018 petition for writ of habeas corpus, 28 U.S.C. § 2254, was an unauthorized second or successive petition over which the District Court lacked jurisdiction. See 28 U.S.C. § 2244(b); Gonzalez v. Crosby, 545 U.S. 524, 531-33 (2005). Appellant's request for counsel is denied as moot.

By the Court,

s/Patty Shwartz  
Circuit Judge

Dated: May 2, 2019  
Lmr/cc: Wayne Pettaway



Patricia S. Dodzuweit, Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

WAYNE PETTAWAY/PETTIGREW, )  
Petitioner, )  
vs. )  
MICHAEL CLARK, Superintendent, )  
Respondent. ) Civil Action No. 18-1467

O R D E R

AND NOW, this 28<sup>th</sup> day of November, 2018, after the petitioner, Wayne Pettaway/Pettigrew, filed a petition for a writ of habeas corpus, and after a Report and Recommendation was filed by the United States Magistrate Judge granting the parties a period of time after being served with a copy to file written objections thereto, and upon consideration of the objections filed by the petitioner, and upon independent review of the petition and the record and upon consideration of the Magistrate Judge's Report and Recommendation (ECF No. 2), which is adopted as the opinion of this Court,

IT IS ORDERED that the petition for a writ of habeas corpus filed by petitioner (ECF No. 1) is dismissed as a successive petition and, because reasonable jurists could not conclude that a basis for appeal exists, a certificate of appealability is denied.

IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure if the petitioner desires to appeal from this Order he must do so within thirty (30) days by filing a notice of appeal as provided in Rule 3, Fed. R. App. P.



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Mark R. Hornak  
United States District Judge

cc: Wayne Pettaway/Pettigrew  
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