

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

**REGINALD BERNARD HATTON, §
TDCJ No. 01637539, §
§
v. §
§
BOBBY LUMPKIN.** §

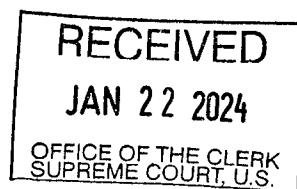
W-23-CV-454-ADA

ORDER OF DISMISSAL

Before the Court is Petitioner Reginald Bernard Hatton's pro se Petition for Writ of Habeas Corpus. Hatton previously filed a petition for writ of habeas corpus which the Court dismissed as time-barred on March 8, 2017. *Hatton v. Davis*, No. 6:17-cv-00014-RP (W.D. Tex. Mar. 8, 2017). In Hatton's current habeas petition, he argues that he is actually innocent because his sentence is illegal; his sentence violates his Eighth Amendment rights and has deprived him of good-time credits; and the trial court entered an improper cumulation order. These claims existed prior to the Hatton filing his first federal habeas corpus petition.

Hatton filed a second federal habeas petition in 2019, raising similar claims. *Hatton v. Davis*, No. 6:19-cv-00249-ADA (W.D. Tex. Apr. 10, 2019). The Court transferred that petition to the Fifth Circuit Court of Appeals, and the Fifth Circuit denied Hatton's motion for authorization to file a successive petition. *In re Reginald Bernard Hatton*, No. 19-50308 (5th Cir. May 29, 2019).

Under 28 U.S.C. § 2244(b)(3), before a petitioner files a second or successive application for writ of habeas corpus in a federal district court, the petitioner must move

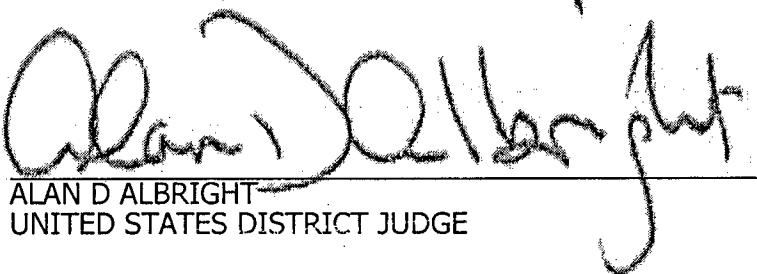


in the appropriate court of appeals for an order authorizing the district court to consider the application. There is no record Hatton filed any such motion in the Fifth Circuit Court of Appeals. Accordingly, Hatton's current petition for writ of habeas corpus is dismissed for lack of jurisdiction because he did not obtain prior approval before filing this successive habeas petition. *See In re Epps*, 127 F.3d 364, 365 (5th Cir. 1997).

It is therefore **ORDERED** that Hatton's petition for writ of habeas corpus is **DISMISSED WITHOUT PREJUDICE** for lack of jurisdiction; and

It is finally **ORDERED** a certificate of appealability is **DENIED**.

SIGNED this 20th day of June, 2023.



ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE