

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 23-2925

RODNEY JOHNSON,
Appellant

v.

SUPERINTENDENT COAL TOWNSHIP SCI;
COMMONWEALTH OF PENNSYLVANIA;
ATTORNEY GENERAL PENNSYLVANIA

On Appeal from the United States District Court
for the Middle District of Pennsylvania
(No. 1-23-cv-01551)
District Judge: Honorable Sylvia H. Rambo

PETITION FOR REHEARING

BEFORE: CHAGARES, *Chief Judge*, and JORDAN, HARDIMAN, SHWARTZ,
KRAUSE, RESTREPO, BIBAS, PORTER, MATEY, PHIPPS, FREEMAN,
MONTGOMERY-REEVES, CHUNG, *Circuit Judges*

The petition for rehearing filed by appellant Rodney Johnson in the above-captioned matter has been submitted to the judges who participated in the decision of this Court and to all other available circuit judges of the Court in regular active service. No judge who concurred in the decision asked for rehearing, and a majority of the circuit judges of the Court in regular active service who are not disqualified did not vote for rehearing by the Court en banc. It is now hereby **ORDERED** that the petition is **DENIED**.

BY THE COURT

s/ Paul B. Matey
Circuit Judge

Dated: April 5, 2024
Sb/cc: Rodney Johnson
All Counsel of Record

BLD-064

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v.

SUPERINTENDENT COAL TOWNSHIP SCI;
COMMONWEALTH OF PENNSYLVANIA;
ATTORNEY GENERAL PENNSYLVANIA

(M.D. Pa. No. 1:23-cv-01551)

Present: BIBAS, MATEY, and CHUNG, Circuit Judges

Submitted is Appellant's request for a certificate of appealability under 28 U.S.C. § 2253(c)(1) in the above-captioned case.

Respectfully,

Clerk

ORDER

Johnson's request for a certificate of appealability is denied. See 28 U.S.C. § 2253(c). Jurists of reason would agree that his habeas petition was a second or successive petition that the District Court lacked jurisdiction to consider without this Court's authorization. See 28 U.S.C. § 2244(b)(3)(A); Slack v. McDaniel, 529 U.S. 473, 484 (2000).

By the Court,

s/ Paul B. Matey
Circuit Judge



A True Copy

Patricia S. Dodsweat

Patricia S. Dodsweat, Clerk
Certified Order Issued in Lieu of Mandate

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

RODNEY JOHNSON,	:	
Petitioner	:	
	:	No. 1:23-cv-1551
v.	:	
	:	(Judge Rambo)
WARDEN of SCI-COAL	:	
TOWNSHIP,	:	
Respondent	:	

ORDER

AND NOW, on this 11th day of October 2023, upon consideration of Petitioner's recently filed petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, (Doc. No. 1), in which Petitioner attempts to collaterally attack his 2009 state-court convictions for rape, involuntary deviate sexual intercourse, aggravated indecent assault, aggravated assault, and simple assault, (*id.* at 3), and the Court observing that Petitioner has already filed a Section 2254 petition—challenging the same state-court convictions—that has been denied by this Court, *see Johnson v. Burns*, No. 1:13-cv-00278, Doc. Nos. 13, 14 (M.D. Pa. July 8, 2014) (Rambo, J.), and for which a certificate of appealability was denied by both the district court and court of appeals, *see id.*, Doc. Nos. 14, 17, and the Court further observing that Petitioner attempted to file a second or successive Section 2254 petition in 2015, *see Johnson v. Pennsylvania*, No. 1:15-cv-00231, Doc. No. 1 (M.D. Pa. Feb. 2, 2015) (Rambo, J.), which petition was dismissed for lack of jurisdiction as an unauthorized

second or successive Section 2254 petition, *see id.*, Doc. Nos. 5, 6, and following this Court's show-cause order (Doc. No. 5) requiring Petitioner to show cause as to why his petition should not be dismissed for lack of jurisdiction as a second or successive Section 2254 petition lacking authorization from the United States Court of Appeals for the Third Circuit, *see* 28 U.S.C. § 2244(b)(3)(A); *Benchoff v. Colleran*, 404 F.3d 812, 820-21 (3d Cir. 2005), and the Court observing that Petitioner's response to this Court's show-cause Order does not address the relevant issues regarding filing a second or successive Section 2254 petition but instead attempts to raise habeas-based arguments, (*see generally* Doc. 9), **IT IS ORDERED THAT:**

1. Petitioner's petition for a writ of habeas corpus under 28 U.S.C. § 2254 is **DISMISSED** for lack of subject matter jurisdiction as a second or successive habeas petition without authorization from the Third Circuit;
2. No certificate of appealability shall issue, as Petitioner has failed to make a substantial showing of the denial of a constitutional right, *see* 28 U.S.C. § 2253(c)(2), or that "jurists of reason would find it debatable" whether this Court's procedural ruling is correct, *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); and
3. The Clerk of Court shall CLOSE this case.

s/ Sylvia H. Rambo
United States District Judge

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