

Docket # _____

IN THE
Supreme Court of the United States

In Re Alphonza Leonard Phillip Thomas-Bey,
Amexem State Republic Consul,

Plaintiff in Error

v.

Jennifer Walsh Warden & North Carolina,

Defendants in Error

Writ of Execution, common lawsuit Supreme Grand
Council's civil jury trial under Treaty of Peace
common law rules. Re-examining criminal trial No.
10CRS050755.

APPENDICES A & L / OPINIONS, ORDERS,
FINDINGS OF FACTS & CONCLUSIONS OF LAW
& FACTS

Alphonza Leonard Phillip Thomas-Bey, Amexem
State Republic Consul

P.O. Box 155
Bunn, NC Near [27508]
PH: 919-215-4566

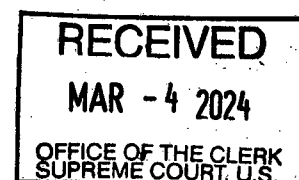
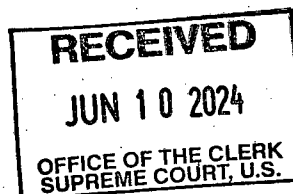


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Issuing Agency

Administrative Inmate Grievance Resolution Board

Case No. 4355-2022-MCDM-19655

Alphonza Leonard Phillip Thomas-Bey

v.

Jennifer Walsh Warden

Date of Entry of Board: 11/28/2022

OPINIONS BELOW

ALPHONZA L. P. THOMAS-BEY,)
)
 Petitioner,)
 v.) 1:23CV35
)
 Josh Stine,)
 Respondent.)

Petitioner, a state prisoner, submitted a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, together with the five-dollar filing fee. This Petition cannot be further processed because court records reveal that Petitioner already attacked the same conviction and sentence in a previous § 2254 Petition (Case Number 1:16CV524). Consequently, Petitioner must apply to the United States Court of Appeals for the Fourth Circuit for an order authorizing this Court to consider the current Petition, as required by 28 U.S.C. § 2244(b)(3)(A). This Court cannot consider the Petition unless that authorization first issues. Petitioner does not claim

that he received authorization to file a successive Petition. Because of this pleading failure, the Petition should be dismissed. The Clerk will return the filing fee to Petitioner and in forma pauperis status will be granted for the sole purpose of entering this Recommendation and Order.

Petitioner has also filed a number of Motions, including a Motion for Summary Judgement [Doc. #3], and Motion to Correct a Clerical Mistake [Doc. #4], Motions to Amend [Doc. #5, #8, #10, #11], an Affidavit [Doc. #7], and a Motion to Review all cases [Doc. #6]. Because Petitioner has not obtained authorization to file a second or successive Petition, the Motion for Summary Judgement should be denied. With respect to the Motion to Correct Clerical Mistake [Doc. #4], that Motion relates to Petitioner's contention that certain of his submissions should have been filed in his earlier Case 1:22CV271, and that issue has already been addressed and resolved by the District Judge by Order in that case, and the Motion in this case is therefore moot. Similarly, in his Motions to Amend, Petitioner seeks to amend to update the cross-references and citations in his various case numbers, but those amendments would not change or affect the issue or the conclusion as to the present case. To the extent Petitioner seeks to consolidate this habeas case with his § 1983 cases, those are completely separate cases and that request was therefore denied by the District Judge by Order 1:22CV271. Therefore, all of these Motions in the present case should likewise be denied.

IT IS THEREFORE RECOMMENDED that Petitioner's Motions [Doc. #3, #4, #5, #6, #8, #9, #10,

#11] be denied and that the Petition be dismissed for failure to apply to the United States Court of Appeals for the Fourth Circuit for an order authorizing this district court to consider the current Petition as is required by 28 U.S.C. § 2244 and that, there being no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction nor a debatable procedural ruling, a certificate of appealability not issue.

IT IS THEREFORE ORDERED that in forma pauperis status is granted for the sole purpose of entering this Recommendation and Order.

IT IS FURTHER ORDERED that the Clerk shall return the five-dollar filing fee to Petitioner and send Petitioner a copy of this Recommendation and Order, instruction forms for filing § 2254 petitions in this Court and for filing a Motion for Authorization in the United States Court of Appeals for the Fourth Circuit, and application to proceed in forma pauperis (upon request), and four copies of the § 2254 petition which can be submitted in this Court if Petitioner obtains approval from the Fourth Circuit.

This, the 7th day of June, 2023.

s/ Joi Elizabeth Peake
United States Magistrate Judge

Supreme Court Rule 14(i)(ii)

Issuing Agency

Administrative Middle District Court of North
Carolina

Case No. 1:23CV35

Alphonza Leonard Phillip Thomas-Bey

v.

Jennifer Walsh Warden

Date of Entry: 7/21/2023

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH
CAROLINA

ALPHONZA L. P. THOMAS-BEY,)
)
 Petitioner,)
) 1:23CV35
)
)
)
)
JOSH STINE,)
)
 Respondent.)

ORDER

The Recommendation and Order of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. § 636(b) and, on June 7, 2023, was served on the parties in this action. Petitioner objected to the Recommendation. (Doc. 17.)

The court has reviewed the portions of the Magistrate Judge's report to which objection was made and has made a de novo determination, which is in accord with the Magistrate Judge's report. The court therefore adopts the Magistrate Judge's Recommendation.

IT IS THEREFORE ORDERED that
Petitioner's Motions (Docs. 3, 4, 5, 6, 8, 9, 10, 11) are
DENIED and that the Petition is DISMISSED for
failure to apply to the United States Court of Appeals
for the Fourth Circuit for an order authorizing this
district court to consider the current Petition as
required by 28 U.S.C. § 2244, and that there being
neither a substantial issue for appeal concerning the
denial of a constitutional right affecting the
conviction nor a debatable procedural ruling, a
certificate of appealability is not issued.

A judgement dismissing this action will be
entered contemporaneously with this Order.

s/ Thomas D. Schroeder
United States District Judge

July 21, 2023

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH
CAROLINA

ALPHONZA L. P. THOMAS-BEY,)
)
 Petitioner,)
) 1:23CV35
 v.)
)
JOSH STINE,)
 Respondent.)

JUDGMENT

For the reasons set forth in the Order filed
contemporaneously with this Judgment,

IT IS THEREFORE ORDERED AND
ADJUDGED that Petitioner's Motions (Docs. 3, 4, 5,
6, 8, 9, 10, 11) are DENIED and that the Petition is
DISMISSED for failure to apply to the United States
Court of Appeals for the Fourth Circuit for an order
authorizing this district court to consider the current
Petition as required by 28 U.S.C. § 2244, and that
there being neither a substantial issue for appeal
concerning the denial of a constitutional right
affecting the conviction nor debatable procedural
ruling, a certificate of appealability is not issued.

s/ Thomas D. Schroeder
United States District Judge

July 21, 2023

UNPUBLISHED
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-6764

ALPHONZA L. P. THOMAS-BEY,
Petitioner - Appellant,

v.

JOSH STINE,
Respondent – Appellee.

Appeal from the United States District Court for the
Middle District of North Carolina, at Greensboro.
Thomas D. Schroeder, District Judge. (1:23-cv-00035-
TDS-JEP)

Submitted: September 28, 2023
Decided: October 3, 2023

Before NIEMEYER, THACKER, and RUSHING,
Circuit Judges.

Alphonza L. P. Thomas-Bey, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Alphonza L. P. Thomas-Bey seeks to appeal the district court's order accepting the recommendation of the magistrate judge; dismissing Thomas-Bey's 28 U.S.C. § 2254 petition as an unauthorized, successive § 2254 petition; and denying Thomas-Bey's related motions. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. See 28 U.S.C. § 2253(c)(1)(A). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). When, as here, the district court denies relief on procedural grounds, the prisoner must demonstrate claim of the denial of a constitutional right. *Gonzalez v. Thaler*, 565 U.S. 134, 140-41 (2012) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

We have independently reviewed the record and conclude that Thomas-Bey has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal

contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED

FILED: October 3, 2023

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-6764

(1:23-cv-00035-TDS-JEP)

ALPHONZA L. P. THOMAS-BEY

Petitioner - Appellant

v.

JOSH STINE

Respondent - Appellee

JUDGMENT

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/ NWAMAKA ANOWI, CLERK

Issuing Agency
Administrative Inmate Grievance Resolution Board
Case No. 4355-2022-MCDM-19655
Alphonza Leonard Phillip Thomas-Bey
v.
Jennifer Walsh Warden
Date of Entry of Board: 11/28/2022

North Carolina Department of Public Safety
(NC DPS)

Roy Cooper, Governor
Eddie M. Buffalo, Jr., Secretary
Timothy D. Moose, Chief Deputy Secretary
Todd E. Ishee, Director

DC-410 Screening Response

Regarding Grievance No.: 4355-2022-MCDM-19655
Received: 11/23/2022

Inmate: THOMAS, ALPHONZA L - 1287495
Location: 4355-COLUMBUS CI - MCDM-002

The grievance you have submitted is being rejected
for the following reason:

- Beyond control of DPS

Rejection Justification:

The Administrative Remedy Procedure, Section .0300
of the North Carolina Department of Public Safety
Prisons Policy and Procedures, provides:

.0306 Rejection of Grievances

(b)...any grievance submitted shall be rejected at any
level of it:

(4) Challenges matters beyond the control of the
Department.

11/28/2022
Date

s/ BOWEN JR, JAMES D.
Staff Electronic Signature

cc: CTS

Mailing Address: 1255 Prison Camp Road,
Whiteville, NC 28472

Office Location: 1255 Prison Camp Road, Whiteville,
NC 28472 Telephone: (910) 642-3285 Fax: (910) 642-
8456

WWW.NCDPS.GOV

Supreme Court Rule 14(i)(ii)

Issuing Agency

Administrative Inmate Grievance Resolution Board

Case No. 4355-2023-MCDM-00573

Alphonza Leonard Phillip Thomas-Bey

v.

Jennifer Walsh Warden

Date of Entry of Board: 04/25/2023

North Carolina Department of Adult Correction

Roy Cooper, Governor
Todd E. Ishee, Director

DC-410 Screening Response

Regarding Grievance No.: 4355-2023-MCDM-00573
Received: 04/25/2023

Inmate: THOMAS, ALPHONZA L - 1287495
Location: 4355-COLUMBUS CI - MCDM-002

The grievance you have submitted is being rejected
for the following reason:

- Beyond control of agency

Rejection Justification:

The Administrative Remedy Procedure, Section .0300
of the North Carolina Department of Adult
Correction Prisons Policy and Procedures, provides:
.0306 Rejection of Grievances

(b)...any grievance submitted shall be rejected at any
level of it:

(4) Challenges matters beyond the control of the
Department.

The state court system is not subject to the NCDAC
grievance process. It is not part of the NCDAC
period.

11/28/2022

Date

s/ BOWEN JR, JAMES D.

Staff Electronic Signature

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