

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 21-6643**

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FRANKIE M. MILLER, JR.,

Petitioner - Appellant,

v.

HAROLD W. CLARKE, Director of the Virginia Department of Corrections,

Respondent - Appellee.

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Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Mark S. Davis, Chief District Judge. (2:20-cv-00505-MSD-DEM)

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Submitted: November 18, 2021

Decided: November 19, 2021

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Before MOTZ, THACKER, and HARRIS, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Frankie M. Miller, Jr., Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Frankie M. Miller, Jr., appeals the district court's order construing his pleading, which was captioned as a "Request for Chief Judge[']s Review of Facts of Case, Appointment of Investigators in Manner Deemed Appropriate by Chief Judge" as an unauthorized, successive 28 U.S.C. § 2254 petition and dismissing it on that basis.\* Our review of the record confirms that the district court properly construed Miller's pleading as a successive § 2254 petition over which it lacked jurisdiction because Miller failed to obtain prefiling authorization from this court. *See* 28 U.S.C. § 2244(b)(3)(A); *McRae*, 793 F.3d at 397-400. Accordingly, we affirm the district court's order.

Consistent with our decision in *United States v. Winestock*, 340 F.3d 200, 208 (4th Cir. 2003), we construe Miller's notice of appeal and informal brief as an application to file a second or successive § 2254 petition. Upon review, we conclude that Miller's claims do not meet the relevant standard. *See* 28 U.S.C. § 2244(b)(2). We therefore deny authorization to file a successive § 2254 petition.

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.

*AFFIRMED*

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\* A certificate of appealability is not required to appeal the district court's jurisdictional categorization of a pleading as an unauthorized, successive habeas petition. *United States v. McRae*, 793 F.3d 392, 400 (4th Cir. 2015).