

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

**MARK CHRISTIAN HENDERSON
ADC #078763**

PLAINTIFF

v.

Case No. 4:23-cv-01005-KGB

DEXTER PAYNE

DEFENDANT

ORDER

The Court has reviewed the Findings and Recommendation (“Recommendation”) submitted by United States Magistrate Judge Patricia S. Harris (Dkt. No. 9). Plaintiff Mark Christian Henderson has not filed any objections, and the time to file objections has passed. However, Mr. Henderson has filed a motion that this Court understands to be a motion to amend his petition for a writ of *habeas corpus* (Dkt. No. 10). Additionally, Mr. Henderson’s sister has filed a notice with the Court in coordination with Mr. Henderson (Dkt. No. 11).

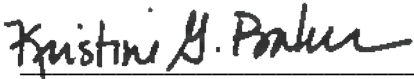
While both the motion and notice contain matters related to Mr. Henderson’s health and ability to access courts without interference,¹ neither address the facts and reasoning of the Recommendation (Dkt. Nos. 10; 11). The Recommendation points out that Mr. Henderson has filed a previous *habeas* petition, *Henderson v. Payne*, No. 4:21-cv-00096-KGB, but has failed to obtain authorization to file his second or successive petition from the United States Court of

¹ To the extent Mr. Henderson may be able to assert a claim against prison officials under 42 U.S.C. § 1983 regarding allegations of interference with his mail based upon his representations in correspondence to the Court, Mr. Henderson would be required to assert such a claim in a separate cause of action, not in this *habeas corpus* proceeding. *See Davis v. Norris*, 249 F.3d 800, 801 (8th Cir. 2001) (“Prisoners’ First Amendment rights encompass the right to be free from certain interference with mail correspondence”); *see also Davis v. Goord*, 320 F.3d 346, 351 (2d Cir. 2003) (“Interference with legal mail implicates a prison inmate’s rights to access to the courts and free speech as guaranteed by the First and Fourteenth Amendments to the U.S. Constitution.”).

Appeals for the Eighth Circuit (Dkt. No. 9, at 2–3). No amendment would fix this deficiency. Accordingly, the Court denies Mr. Henderson’s motion to amend his petition for writ of *habeas corpus* (Dkt. No. 10).

After careful consideration, the Court approves and adopts the Recommendation in its entirety as this Court’s findings in all respects (Dkt. No. 9). The Court dismisses without prejudice Mr. Henderson’s petition for writ of *habeas corpus* (Dkt. No. 1). The Court declines to issue a certificate of appealability pursuant to Rule 11(a) of the Rules Governing Section 2254 Cases.

It is so ordered this the 28th day of August, 2024.



Kristine G. Baker
Chief United States District Judge