

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION

STANLEY M. STROTHER,

Petitioner,

v.

CASE NO. 1:06-cv-00015-MP-AK

STATE OF FLORIDA,

Respondent.

REPORT AND RECOMMENDATION

This matter is before the Court on Doc. 1, Petition for Writ of Habeas Corpus, filed by Stanley M. Strother. This is not Petitioner's first habeas corpus petition in this Court. *See Strother v. Crosby*, 4:03cv19-SPM/AK (N.D. Fla.). In that proceeding, habeas relief was denied on the merits, and the case was dismissed with prejudice. Docs. 16-18. Petitioner did not appeal.

On this occasion, Petitioner challenges his conviction based on *Blakely v. Washington*. However, because this is a second or successive petition, this Court has no authority to consider anything related to this petition. Instead, Petitioner must first "move in the appropriate court of appeals for an order authorizing the district court to consider the application." 28 U.S.C. § 2244(3)(A). Only after the court of appeals determines "that the application makes a prima facie showing that the application [shows that the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously

unavailable]” will the appellate court “authorize the filing of a second or successive application....” *Id.* at (2)(A) &(3)(C).

Accordingly, it is respectfully **RECOMMENDED**:

That the petition for writ of habeas corpus, Doc. 1, be **DENIED** as an unauthorized second or successive petition;

That this cause be **DISMISSED**.

IN CHAMBERS at Gainesville, Florida, this 27th day of January, 2006.

s/ A. KORNBLUM
ALLAN KORNBLUM
UNITED STATES MAGISTRATE JUDGE

NOTICE TO THE PARTIES

A party may file specific, written objections to the proposed findings and recommendations within 15 days after being served with a copy of this report and recommendation. A party may respond to another party’s objections within 10 days after being served with a copy thereof. Failure to file specific objections limits the scope of review of proposed factual findings and recommendations.