

United States District Court
for the
Southern District of Florida

James Bernard Campbell,)	
Petitioner,)	
)	
v.)	Civil Action No. 17-24646-Civ-Scola
)	
Secretary of Florida Department)	
of Corrections,)	
Respondent.)	

Order Adopting Magistrate Judge's Report And Recommendation

This case was referred to United States Magistrate Judge Patrick A. White, consistent with Administrative Order 2003-19 of this Court, for a ruling on all pre-trial, nondispositive matters and for a report and recommendation on any dispositive matters. Judge White's Report concludes that this matter should be dismissed as a successive habeas corpus petition, filed without first obtaining authorization from the Eleventh Circuit Court of Appeals, as required by 28 U.S.C. § 2244(b)(3). (Report of Magistrate, ECF No. 5.) Despite requesting an extension of time, which the Court granted, the Petitioner James Bernard Campbell has not filed objections to the report, and the time to do so has passed.

The Court has made a *de novo* review of the record. This is Campbell's second attempt before the undersigned seeking review of his conviction and sentence for first degree murder, attempted first degree murder, robbery with a deadly weapon, armed burglary of a dwelling, and possession of a weapon during the commission of a criminal offense. (Pet., ECF No. 1.)¹ Campbell first sought federal review of these same convictions in 1998, pursuant to 28 U.S.C. § 2254.² (Pet., Case No. 98-cv-02088-DLG, ECF No. 1.) After lengthy proceedings, the Court denied Campbell's petition on the merits. (Report and Order, Case No. 98-cv-02088-DLG, ECF Nos. 172, 180.)

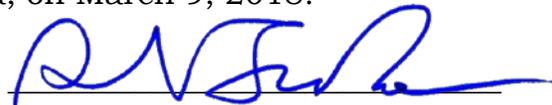
¹ The undersigned dismissed Campbell's first attempt at review without prejudice to be re-filed if the Eleventh Circuit granted Campbell's application for leave to file a successive habeas corpus petition. (See Case No. 17-cv-20406-RNS.)

² In fact, Campbell continues to litigate that case, having filed the most recent motion in the 1998 case on January 18, 2018, despite being enjoined from filing further pleadings without first seeking leave of court. (See ECF No. 274 at 3.)

In the earlier case filed before the undersigned, the Court agreed with Judge White that Campbell's application qualified as a successive habeas corpus application, which would require authorization from the Eleventh Circuit for him to file. Despite the Court's noting this requirement, and dismissing Campbell's petition without prejudice, there is no indication that Campbell sought the appropriate permission from the Eleventh Circuit prior to filing the present action.

Thus, having considered Judge White's Report, and the relevant legal authorities, as well as having made a *de novo* review of the record, the Court finds Judge White's Report and Recommendation cogent and compelling. The Court **affirms and adopts** Judge White's Report and Recommendation (**ECF No. 5**). The Petition for Writ of Habeas Corpus (**ECF No. 1**) is **dismissed** for lack of jurisdiction, and the certificate of appealability is **denied**. All other pending motions are **denied as moot**. Finally, the Court directs the Clerk to **close** this case.

Done and ordered at Miami, Florida, on March 9, 2018.



Robert N. Scola, Jr.

United States District Judge