

**IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF ILLINOIS  
SPRINGFIELD DIVISION**

LAWRENCE WEATHERLY,	)	
	)	
Petitioner,	)	
	)	
v.	)	08-3197
	)	
LEE RYKER,	)	
	)	
Respondent.	)	

**OPINION**

RICHARD MILLS, U.S. District Judge:

Lawrence M. Weatherly, a state prisoner convicted in Logan County, Illinois, in the circuit court of the Eleventh Judicial District, petitions this Court for a writ of habeas corpus pursuant to § 2254.

Under Rule 4 of the Rules Governing § 2254 Proceedings for the United States District Courts, a district judge must dismiss a petition where “it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court.” In this case, Weatherly’s petition reveals a previous federal habeas petition that was dismissed on timeliness grounds. As such, the current petition is a second

application for habeas relief subject to the gatekeeping requirements of 28 U.S.C. § 2244(b)(3)(A). *See Altman v. Benik*, 337 F.3d 764, 766-67 (7th Cir. 2003). Under that provision, a district court may not entertain a second habeas petition without authorization from the court of appeals. § 2244(b)(3)(A) (“Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.”); *Burton v. Stewart*, 549 U.S. 147 (2007). Since no such authorization appears in the record, this case must be dismissed.

Ergo, Weatherly’s second habeas petition is dismissed pursuant to Rule 4 and § 2244(b)(3)(A).

IT IS SO ORDERED.

ENTERED: November 3, 2008

FOR THE COURT:

/s Judge Richard Mills  
United States District Judge