

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA

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| KENNETH FAUST, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | CAUSE NO. 3:08-CV-055-TS |
| |) | |
| SUPERINTENDENT OF |) | |
| INDIANA STATE PRISON, |) | |
| |) | |
| Respondent. |) | |

OPINION AND ORDER

Kenneth Faust, a *pro se* prisoner, filed this habeas corpus petition attempting to challenge his murder conviction in 1992 and the resulting 60-year sentence, imposed in 1993, in the Marion Superior Court in cause number 49G04-9010-CV-129462. This is not the first time that he has collaterally attacked his conviction or sentence. In *Faust v. Anderson*, 3:98-CV-467 (N.D. Ind. filed August 31, 1998), his habeas corpus petition was denied on May 6, 1999. He filed a notice of appeal as to that judgment, but he was denied a certificate of appealability by both this court and the Seventh Circuit, which issued its mandate on May 11, 2000. Later, he sought leave from the Seventh Circuit to file a second or successive habeas corpus petition, but was denied on July 12, 2005, in *Faust v. Davis*, 05-2886 (7th Cir. 2005). Nevertheless, he filed an unauthorized successive petition in this court in *Faust v. Buss*, 3:05-CV-650 (N.D. Ind. filed October 14, 2005). Because it was an unauthorized successive petition, it was dismissed on October 19, 2005.

Now Faust returns with this petition. Regardless of whether the claims that he is now attempting to present are new or whether the were presented in his previous petition, this petition must be dismissed. “A claim presented in a second or successive habeas corpus application

under section 2254 that was presented in a prior application shall be dismissed.” 28 U.S.C. § 2244(b)(1). Therefore, any claims previously presented must be dismissed. Federal law also does not allow him to present any new claims. “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.” 28 U.S.C. § 2244(b)(3)(A). Faust has not been authorized to bring a second or successive petition by the Seventh Circuit. This Court’s obligation is clear. “A district court *must* dismiss a second or successive petition . . . unless the court of appeals has given approval for its filing.” *Nunez v. United States*, 96 F.3d 990, 991 (7th Cir. 1996). Therefore, any previously unrepresented claims must also be dismissed.

For the foregoing reasons, the habeas corpus petition is **DISMISSED** for want of jurisdiction and the *in forma pauperis* petition is **DENIED**.

SO ORDERED on February 7, 2008.

s/ Theresa L. Springmann
THERESA L. SPRINGMANN
UNITED STATES DISTRICT COURT
FORT WAYNE DIVISION