

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

SCOTT SOUSLEY,)	
)	
Petitioner,)	
)	
v.)	CAUSE NO. 3:08-CV- 442 PS
)	
SUPERINTENDENT,)	
)	
Respondent.)	

OPINION AND ORDER

Scott Sousley, a *pro se* prisoner, filed this habeas corpus petition attempting to challenge his state court conviction for murder. Sousley previously filed a habeas corpus petition challenging this same conviction in *Sousley v. Smith*, 3:06-cv-189 (N.D. Ind. filed March 16, 2006). The Court dismissed that case on August 3, 2006.

Regardless of whether the claims Sousley now attempts to present are new or whether he presented them 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.

Additionally, for any claim not previously presented,

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). Here, Sousley has not obtained an order from the court of appeals permitting him to proceed with any claims he did not previously present. “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) (emphasis in original). Consequently, any claims Sousley did not previously present must also be dismissed.

Therefore, the Court **DISMISSES** the habeas corpus petition for want of jurisdiction.

SO ORDERED.

ENTERED: November 24, 2008.

s/ Philip P. Simon
PHILIP P. SIMON, JUDGE
UNITED STATES DISTRICT COURT