

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

DAVID PANSELL,

Petitioner,

v.

SUPERINTENDENT,

Respondent.

)
)
)
)
)
)
)
)
)
)

Case No. 3:15-CV-221 JD

OPINION AND ORDER

David Pannell, a *pro se* prisoner housed at the Indiana State Prison, filed this habeas corpus petition attempting to challenge his 1987 conviction and 60 year sentence by the Marion Superior Court under cause number 49G01-9502-CF-24360. This is not the first time that Pannell has brought a habeas corpus petition challenging that conviction. In *Pannell v. Neal*, 1:12-CV-1301 (S.D. Ind. filed September 13, 2012), Pannell sought to challenge the same conviction he is challenging here. DE 1 at 2. In that case, the court found the petition was untimely and further explained that even if it had been timely, the grounds raised would not merit habeas corpus relief. Final Judgment was entered on March 19, 2015, and his Rule 59(e) motion was denied on May 5, 2015.

In his prior habeas corpus proceeding, the court addressed the merits of his grounds for relief, but even if it had not, this would still be a successive habeas corpus petition because a “prior untimely petition . . . is not a curable technical or procedural deficiency but rather operates as an irreparable defect barring consideration of the petitioner’s substantive claims.” *Altman v. Benik*, 337 F. 764, 766 (7th Cir. 2003). In this case, to the extent that Pannell is attempting to raise claims that he has previously presented, they must be dismissed because “[a] claim presented in a second or successive habeas corpus application under section 2254 that was presented in a prior application

