

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

KEVIN L. GOVAN,)	
)	
Petitioner,)	
)	
v.)	CAUSE NO. 3:15-CV-501 RM
)	
)	
SUPERINTENDENT,)	
)	
Respondent.)	

OPINION AND ORDER

Kevin L. Govan, a *pro se* prisoner, filed a habeas corpus petition pursuant to 28 U.S.C. § 2254 challenging his 2005 convictions in Allen County in Case No. 02D04-0411-FB-196. (DE 1.) In Govan v. Superintendent, 3:09-CV-547 (N.D. Ind. filed Nov. 20, 2009), Mr. Govan challenged the same 2005 convictions. This court denied his petition in October 2011. (Id., DE 29.) Mr. Govan appealed, but the court of appeals denied his request for a certificate of appealability. (Id., DE 49.)

This court has no authority to hear an unauthorized successive habeas corpus petition. Burton v. Stewart, 549 U.S. 147, 157 (2007). Mr. Govan already filed a federal habeas petition challenging his 2005 convictions. Regardless of whether the claims he now wants to present are new or the same as those presented before, the 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). New claims can be presented under some circumstances: “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). Mr. Govan hasn’t gotten an order from the court of appeals allowing him to proceed with (and authorizing this court to decide) any new claims. “A district court *must* dismiss a second or successive petition, without awaiting any response from the [state], 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). Mr. Govan’s petition must be dismissed.

For the reasons set forth above, the court DISMISSES the petition (DE 1) for lack of jurisdiction.

SO ORDERED.

ENTERED: January 13, 2016

/s/ Robert L. Miller, Jr.
Judge
United States District Court