

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

STEVEN JOHNSON,
Petitioner,

v.

CIVIL ACTION NO. 14-14377-GAO

KELLY RYAN,
Respondent.

ORDER

O'TOOLE, D.J.

On December 2, 2014, Steven Johnson (“Johnson”), a state inmate incarcerated at MCI - Shirley, filed a motion for leave to proceed in forma pauperis and a motion for leave to file a reduced number of copies of a petition for a writ of habeas corpus. Johnson did not submit a petition for a writ of habeas corpus with the motions. See Docket.

By Order dated December 12, 2014, Johnson’s motions were denied. See Docket No. 4. The order advised Johnson that he had not initiated a habeas action through the filing of the motions. Id. On December 22, 2014, one week after this case was closed, Johnson filed a petition under 28 U.S.C. § 2254 for a writ of habeas corpus in which he challenges his 1985 conviction in Suffolk Superior Court. See Docket No. 6. The § 2254 petition was accompanied by motions to appoint counsel, for discovery, for an evidentiary hearing and for leave to proceed in forma pauperis. See Docket Nos. 7-10.

The Court’s records indicate that Johnson previously brought a § 2254 petition challenging his 1985 conviction. See Johnson v. MacEachern, C.A. No. 09-11646-WGY (D. Mass. Oct. 5, 2009) (§ 2254 petition dismissed as untimely). The First Circuit denied Johnson’s request for leave to file a second or successive § 2254 petition. See Johnson v. MacEachern, No. 09-2419 (1st Cir. Nov. 13, 2009).

Here, it is clear that, in the absence of permission from the First Circuit to file a second or successive § 2254 petition, the Court is without jurisdiction to entertain the petition and therefore cannot grant any relief. Johnson is advised that this action remains closed and the Clerk shall terminate the pending motions.

SO ORDERED.

July 31, 2015
DATE

/s/ George A. O'Toole, Jr.
GEORGE A. O'TOOLE, JR.
UNITED STATES DISTRICT JUDGE