

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 15-12890-RGS

ALEX RANKINS,  
Petitioner

v.

KELLY RYAN, Superintendent,  
Respondent

ORDER ON REPORT AND RECOMMENDATION  
OF THE MAGISTRATE JUDGE

August 24, 2016

STEARNS, D.J.

I agree with Magistrate Judge Dein's determination that petitioner Rankins has filed a second or successive petition filed without the required authorization of the Court of Appeals. *See* 28 U.S.C. § 2244(b)(3)(A). Without such authorization, this court lacks jurisdiction to entertain the petition. *Burton v. Stewart*, 549 U.S. 147, 157 (2007). I also agree with the Magistrate Judge's conclusion that the petition is untimely under the one-year limitations period mandated by 28 U.S.C. § 2244(d)(1), and that no exception applies. Finally, for the reason stated by the Magistrate Judge, namely futility, the petition will be dismissed rather than transferred to the

Court of Appeals.<sup>1</sup>

Consequently, the Recommendation is ADOPTED and the petition is DISMISSED with prejudice. Any request for the issuance of a Certificate of Appealability pursuant to 28 U.S.C. § 2253 is DENIED, the court seeing no meritorious or substantial basis supporting an appeal. The Clerk is instructed to close the case.

SO ORDERED.

/s/ Richard G. Stearns

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UNITED STATES DISTRICT JUDGE

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<sup>1</sup> Petitioner's objections to the Report and Recommendation make no arguments that were not considered by the Magistrate Judge, as reflected in her Report.