

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 17-10457-RGS

REGINALD BUTLER,
Petitioner

v.

STEVEN O'BRIEN,
Respondent

ORDER ON REPORT AND RECOMMENDATION
OF THE MAGISTRATE JUDGE

August 8, 2017

STEARNS, D.J.

I agree with Magistrate Judge Kelley's determination that petitioner has filed an unauthorized "second and successive" petition¹ over which this court has no jurisdiction. Consequently, her Recommendation is ADOPTED and the petition is DISMISSED with prejudice.² 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.

¹ The Magistrate Judge persuasively identifies *Burton v. Stewart*, 549 U.S. 147 (2007), among other sources, as a controlling precedent.

² Petitioner has not filed an Objection to the Report.

SO ORDERED.

/s/ Richard G. Stearns

UNITED STATES DISTRICT JUDGE