

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DAKOTA SHANANAQUET, #543751,

Petitioner,

v.

CASE NO. 2:18-CV-11552
HON. GEORGE CARAM STEEH

ANTHONY STEWART,

Respondent.

**OPINION AND ORDER DISMISSING THE HABEAS CASE AS
DUPLICATIVE, DIRECTING THAT THE HABEAS PETITION BE
FILED IN A PRIOR CASE, DENYING A CERTIFICATE
OF APPEALABILITY, AND DENYING LEAVE TO PROCEED
IN FORMA PAUPERIS ON APPEAL**

Michigan prisoner Dakota Shananaquet (“petitioner”) has filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 asserting that she is being held in violation of her constitutional rights. In her pleadings, she challenges Emmet County Circuit Court convictions for three counts of perjury, possession of a financial transaction device, larceny from a motor vehicle, and false report of a felony for which she was sentenced as a habitual offender to concurrent terms of 7 to 20 years imprisonment, 1 year 4 months to 8 years imprisonment, 1 year 4 months

to 10 years imprisonment, and 4 to 6 years imprisonment, respectively, in 2013.

The petitioner, however, has already filed a federal habeas action challenging the same convictions and sentences which is pending in federal court. See Shananaquet v. Stewart, Case No. 2:16-CV-13357 (E.D. Mich.) (Goldsmith, J.). In that case, Judge Goldsmith stayed and administratively closed the case so that the petitioner could return to the state courts to exhaust state remedies as to additional claims. The petitioner was instructed to move to re-open that case to proceed on an amended petition upon completion of her state court remedies. Rather than doing so, the petitioner filed the instant petition.

The instant action must be dismissed as duplicative and/or successive to the petitioner's stayed habeas petition. See, e.g., Flowers v. Trombley, 2006 WL 724594, *1 (E.D. Mich. March 17, 2006) Harrington v. Stegall, 2002 WL 373113, *2 (E.D. Mich. Feb. 28, 2002); see also Davis v. United States Parole Comm'n, 870 F.2d 657, 1989 WL 25837, *1 (6th Cir. March 7, 1989) (district court may dismiss habeas petition as duplicative of pending habeas petition when second petition is essentially same as first petition). The petitioner's pleadings should be submitted in her previously-

filed case. The petitioner may not challenge the same convictions in two different habeas actions. Accordingly, the Court **DISMISSES** this case without prejudice. The Court **DIRECTS** the Clerk's Office to re-file the instant petition in Case No. 2:16-CV-13357 for further consideration. The Court makes no determination as to the merits of the habeas petition. This case is closed.

Before the petitioner may appeal, a certificate of appealability must issue. See 28 U.S.C. § 2253(c)(1)(a); Fed. R. App. P. 22(b). A certificate of appealability may issue only if a petitioner makes "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). When a court denies relief on procedural grounds without addressing the merits, a certificate of appealability should issue if it is shown that jurists of reason would find it debatable whether the petitioner states a valid claim of the denial of a constitutional right, and that jurists of reason would find it debatable whether the court was correct in its procedural ruling. Slack v. McDaniel, 529 U.S. 473, 484-85 (2000). Reasonable jurists could not debate the correctness of the Court's procedural ruling. Accordingly, the Court **DENIES** a certificate of appealability. The Court also **DENIES** leave to proceed in forma pauperis on appeal as any appeal from this non-

prejudicial dismissal would be frivolous and cannot be take in good faith.

See Fed. R. App. P. 24(a).

IT IS SO ORDERED.

s/George Caram Steeh
HON. GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

Dated: May 24, 2018

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on May 24, 2018, by electronic and/or ordinary mail and also on Dakota Shananaquet #54375, Huron Valley Complex - Womens, 3201 Bemis Road, Ypsilanti, MI 48197.

s/Barbara Radke
Deputy Clerk