

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

RICKY SHANNON PIERCE

PETITIONER

V.

NO. 4:17-CV-155-DMB-RP

TIMOTHY MORRIS, et al.

RESPONDENTS

ORDER TRANSFERRING CASE

On or about October 30, 2017, Ricky Shannon Pierce filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his conviction and sentence for sexual battery. Doc. #1. Pierce previously filed an unsuccessful § 2254 motion challenging the same conviction and sentence he seeks to challenge in this action. *See Pierce v. Lee*, 4:16-cv-95 (N.D. Miss.) (petition for writ of habeas corpus denied May 12, 2017). The Antiterrorism and Effective Death Penalty Act requires that an applicant seeking to file a second or successive petition first “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)(A). Pierce has not demonstrated that he has obtained authorization from the Fifth Circuit Court of Appeals to file this successive petition. Rather than dismissing the petition on this basis, the Fifth Circuit permits district courts to transfer the petition for consideration pursuant to 28 U.S.C. § 2244(a) and (b)(3)(C). *See In re Epps*, 127 F.3d 364, 365 (5th Cir. 1997). Therefore, in the interest of justice and judicial economy:

1. This petition will be transferred to the Fifth Circuit Court of Appeals for the petitioner to seek leave to file this successive § 2254 petition;
2. The Clerk of Court is **DIRECTED** to transfer this petition and the entire record to the Fifth Circuit Court of Appeals in accordance with 28 U.S.C. § 2244(a) and (b)(3)(C), and *In re Epps*, 127 F.3d at 365; and

3. This case is **CLOSED**.

SO ORDERED, this 28th day of December, 2017.

/s/Debra M. Brown
UNITED STATES DISTRICT JUDGE