UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JOHN DECLUE,   )
)
            Petitioner,   )
)
      v.   )   No. 4:14CV798 TIA
)
TOM VILLMER,   )
)
            Respondent,   )

MEMORANDUM AND ORDER

This matter is before the Court on petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The petition is successive and shall be summarily dismissed.

Rule 4 of the Rules Governing § 2254 Cases in the United States District Courts provides that a district court shall summarily dismiss a § 2254 petition if it plainly appears that the petitioner is not entitled to relief.

Petitioner was convicted in state court of first degree murder, first degree robbery, and two counts of armed criminal action on June 25, 1997. On July 28, 1997, the trial court sentenced petitioner to life without parole.

Petitioner brought his first federal petition for writ of habeas corpus challenging the conviction on February 5, 2003. DeClue v. Luebbers, 4:03CV145 MLM (E.D. Mo.). The Court denied the petition on June 8, 2005.

In the instant petition, petitioner raises four grounds of ineffective assistance of trial counsel.

To the extent that petitioner seeks to relitigate claims that he brought in his original petition, those claims must be denied pursuant to 28 U.S.C. § 2244(b)(1). To the extent that

petitioner seeks to bring new claims for habeas relief, petitioner must obtain leave from the United States Court of Appeals for the Eighth Circuit before he can bring those claims in this Court. 28 U.S.C. § 2244(b)(3)(A). Petitioner has not been granted leave to file a successive habeas petition in this Court. As a result, the petition shall be dismissed.

Accordingly,

IT IS HEREBY ORDERED that petitioner's motion for appointment of counsel [ECF No. 2] is **DENIED** as moot.

IT IS FURTHER ORDERED that petitioner's petition for writ of habeas corpus is **DISMISSED** without prejudice.

An Order of Dismissal will be filed separately.

Dated this 1<u>st</u> day of <u>May</u>, 2014.

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STEPHEN N. LIMBAUGH, JR.
UNITED STATES DISTRICT JUDGE