

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CLAUDE HOLLAND,

Petitioner,
-against-ORDER
14-CV-7325 (JG)

THOMAS STICHT,

Respondent.

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JOHN GLEESON, United States District Judge

On December 11, 2014, petitioner Claude Holland, currently incarcerated at Gowanda Correctional Facility, filed this *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging his January 15, 1988 Queens County conviction. Petitioner's request to proceed *in forma pauperis* is granted. As set forth below, I cannot consider the instant petition and transfer it to the United States Court of Appeals for the Second Circuit.

Petitioner has previously challenged his January 15, 1988 conviction. *See Holland v. Lempke*, No. 13-CV-4989 (JG) (order dated Sept. 11, 2013, transferring petition to the Second Circuit as second or successive. Petitioner's application to file a second or successive petition was denied by Mandate, No. 13-3419 (2d Cir. Nov. 26, 2013)); *Holland v. Irvin*, No. 97-CV-3889 (JG) (petition denied Sept. 22, 1998. Dismissal affirmed by Mandate, No. 98-3728 (2d Cir. Oct. 2, 2002)).

The Antiterrorism and Effective Death Penalty Act of 1996 "allocates jurisdiction to the courts of appeals, not the district courts, to authorize successive habeas motions or applications." *Torres v. Senkowski*, 316 F.3d 147, 151 (2d Cir. 2003); 28 U.S.C. § 2244(b)(3)(A). Therefore, petitioner must seek the approval of the United States Court of Appeals for the Second Circuit to pursue this successive petition for habeas corpus relief. 28 U.S.C. § 2244(b)(3)(A).

Accordingly, in the interest of justice, the Clerk of Court shall transfer this petition to the United States Court of Appeals for the Second Circuit pursuant to 28 U.S.C. § 1631. *Torres*, 316 F.3d at 151-52 (citing *Liriano v. United States*, 95 F.3d 119 (2d Cir. 1996) (*per curiam*)). This order closes this case. If the Second Circuit authorizes petitioner to proceed in this matter, petitioner shall move to reopen under this docket number.

SO ORDERED.

JOHN GLEESON, U.S.D.J.

Dated: December 22, 2014
Brooklyn, New York