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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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MITCHELL MONTGOMERY,

Petitioner,

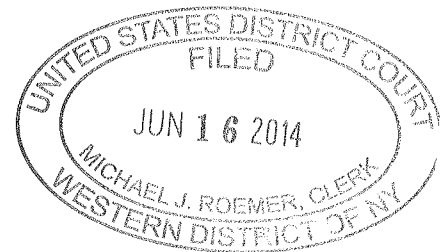
-v-

DALE ARTUS, Superintendent  
Gowanda,

Respondent.

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**DECISION AND ORDER**  
**14-CV-0438-A**




On June 6, 2014, petitioner, Mitchell Montgomery, an inmate of a state correctional facility, filed a *pro se* petition under 28 U.S.C. § 2254 with respect to a judgment of conviction entered on August 6, 1998, in Erie County, New York. This is petitioner's second or successive petition with respect to the same judgment of conviction. Petitioner's previous § 2254 petition was filed in the Western District under civil number 1:03-CV-0270MAT.

According to 28 U.S.C. § 2244, before a district court may entertain a second or successive application for a writ of habeas corpus filed pursuant to § 2254, the petitioner must have first requested and obtained an order from the appropriate court of appeals which authorizes the filing of such a second or successive petition. The petition herein has not been so authorized. Therefore, in the interests of justice and pursuant to 28 U.S.C. § 1631, this petition shall be transferred to the Second Circuit

Court of Appeals for a determination of the authorization issue. See *Liriano v. United States of America*, 95 F.3d 119 (1996).

IT HEREBY IS ORDERED, that the petitioner's § 2254 petition is transferred to the Second Circuit Court of Appeals.

**IT IS SO ORDERED.**

  
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HONORABLE RICHARD J. ARCARA  
UNITED STATES DISTRICT JUDGE

Dated: June 16, 2014