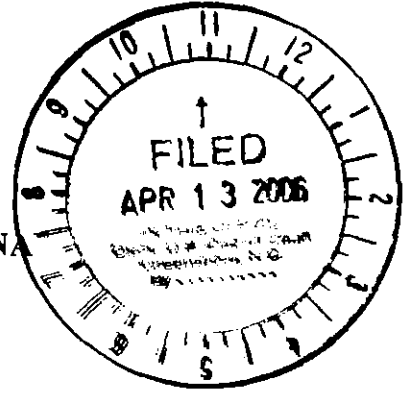


54secondhabeas.frm

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



Restoney Robinson, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 Theodis Beck, )  
 )  
 Respondent. )

1:06CV00349

**RECOMMENDATION AND ORDER  
OF UNITED STATES MAGISTRATE JUDGE**

Petitioner, a state prisoner, has submitted a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, together with the \$5.00 filing fee. The Clerk of Court received the submission on April 5, 2006. This petition cannot be further processed because court records reveal that petitioner has already attacked the same murder conviction and sentence in a previous § 2254 petition [No. 2:96CV1]. Consequently, petitioner must apply to the Fourth Circuit Court of Appeals for an order authorizing this district court to consider the current petition. This is required by 28 U.S.C. § 2244. See AO 241 (MDNC 3/97), Instructions, ¶ (5), which is enclosed. Therefore, this particular petition should be dismissed.

**IT IS THEREFORE ORDERED** that the Clerk return the \$5.00 filing fee to petitioner.

