

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

ROBERT WAYNE SMITH,)	
)	
Petitioner,)	
)	
v.)	1:15CV497
)	
DAVID MITCHELL,)	
)	
Respondent.)	

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

Petitioner, a state prisoner, submitted a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, together with an application to proceed *in forma pauperis*. This Petition cannot be further processed because court records reveal that Petitioner already attacked the same conviction and sentence in a previous § 2254 petition [1:06CR489]. Consequently, Petitioner must apply to the United States Court of Appeals for the Fourth Circuit for an order authorizing this Court to consider the current Petition, as required by 28 U.S.C. § 2244(b)(3)(A). This Court cannot consider the Petition unless that authorization first issues. Petitioner does not claim that he received authorization to file a successive Petition. Because of this pleading failure, the Petition should be dismissed. *In forma pauperis* status will be granted for the sole purpose of entering this Recommendation and Order.

