

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

MICHAEL LOUNSBURY,

Petitioner,

Civil No. 09-6332-AA

v.

ORDER

BRIAN BELLEQUE,

Respondent.

AIKEN, District Judge.

Petitioner sent a letter to the court dated November 3, 2009, seeking a "complete investigation" of matters concerning his conviction. The Clerk of the Court was directed to docket petitioner's letter as a petition for habeas corpus relief under 28 U.S.C. § 2254.

Court records indicate that petitioner filed a previous habeas petition in Oregon District Court Civ. No. 99-1135-CO. Petitioner was appointed counsel and the case was fully litigated on the

merits. Petitioner's petition was denied and the proceeding was dismissed by Order (#71) and Judgment (#72) entered August 24, 2005. The District Court judgment was affirmed by the Ninth Circuit Court of Appeals in a Mandate filed May 18, 2006.

Petitioner now seeks relief based on a claim of "actual innocence."

28 U.S.C. § 2244(b)(3)(A) requires petitioners to obtain permission of the Court of Appeals before filing a second or successive petition in the District Court. If a petitioner does not obtain the required certificate of authorization to file a second or successive petition, the District Court has no jurisdiction to consider the petition. Cooper v. Calderon, 274 F.3d 1270 (9th Cir. 2001).

Petitioner has not obtained the required certificate of authorization to proceed with a second petition concerning the conviction at issue in this proceeding. Accordingly, petitioner's "petition" (letter request for habeas relief) is denied without prejudice to seek reconsideration at which time, if any, that petitioner obtains the required certification for the Ninth Circuit Court of Appeals pursuant to § 2244(b)(3)(A).

This proceeding is dismissed.

DATED this 19 day of January, 2009.

s/ Ann Aiken

Ann Aiken
United States District Judge