

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

|                     |   |                      |
|---------------------|---|----------------------|
| _____               | ) |                      |
| CLARENCE E. SPIVEY, | ) |                      |
|                     | ) |                      |
| Petitioner,         | ) |                      |
|                     | ) | C.A. No. 16-70 S LDA |
| v.                  | ) |                      |
|                     | ) |                      |
| A.T. WALL,          | ) |                      |
|                     | ) |                      |
| Respondent.         | ) |                      |
| _____               | ) |                      |

ORDER

WILLIAM E. SMITH, Chief Judge.

On May 13, 2016, United States Magistrate Judge Lincoln D. Almond issued a Report and Recommendation ("R&R") (ECF No. 10) recommending that this Court dismiss Petitioner's Petition for Writ of Habeas Corpus ("Petition") (ECF No. 1) because it constituted a second or successive petition under 28 U.S.C. § 2244(b)(1). As the R&R noted, in a petition Petitioner filed in 2012, he claimed that the Rhode Island Department of Corrections improperly calculated his "good time" credits. (R&R 2, ECF No. 10 (citing Spivey v. Rhode Island, No. CA 12-33 S, 2012 WL 3789444, at \*1 (D.R.I. June 29, 2012), report and recommendation adopted, No. CA 12-33-S, 2012 WL 3790748 (D.R.I. Aug. 29, 2012)).) His present Petition raises the same complaint. (See Petition 6, ECF No. 1.) As the R&R correctly concluded, to bring this second habeas petition, Petitioner must first receive

authorization from the Court of Appeals, which he has failed to do. See 28 U.S.C. § 2244(b)(3)(A). Consequently, the Court OVERRULES the objection and ACCEPTS the R&R pursuant to 28 U.S.C. § 636(b)(1). Plaintiff's Petition is DISMISSED.

IT IS SO ORDERED.



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William E. Smith  
Chief Judge  
Date: September 23, 2016