

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT GREENEVILLE**

TIMOTHY DENTON,	)	
	)	
Petitioner,	)	
	)	
v.	)	No.: 2:21-CV-32-DCLC-CRW
	)	
WARDEN BOYD,	)	
	)	
Respondent.	)	

**MEMORANDUM AND ORDER**

Petitioner Timothy Denton is an inmate proceeding pro se on a federal habeas petition filed pursuant to 28 U.S.C. § 2254, in which he seeks to challenge the legality of his confinement under a 2006 Sullivan County, Tennessee judgment of conviction for first-degree murder [Doc. 1].

Petitioner has already filed one unsuccessful § 2254 petition challenging the judgment he seeks to challenge in the instant petition. *See Timothy Lynn Denton v. Randy Lee*, 2:13-cv-27-TRM-SKL (E.D. Tenn. Mar. 17, 2016); No. 16-6093 (6th Cir. Apr. 14, 2017). The Antiterrorism and Effective Death Penalty Act requires that an applicant seeking to file a second or successive petition first “move in the appropriate court of appeals for an order authorizing the district court to consider the application.” 28 U.S.C. § 2244(b)(3)(A). The Court has not received an order from the Sixth Circuit authorizing the Court to consider the pending petition.

Accordingly, the Court finds that the § 2254 petition filed in this case is a second or successive petition subject to § 2244(b)(3). Rather than dismissing a habeas petition on the basis that it is successive, a district court is to transfer the file to the court of appeals, which will construe the petition as a request for authorization under § 2244(b)(3). *See In re Sims*, 111 F.3d 45, 47 (6th

Cir. 1997). Therefore, the Clerk is **DIRECTED** to transfer this action to the United States Court of Appeals for the Sixth Circuit, pursuant to 28 U.S.C. § 1631 and *In re Sims*, 111 F.3d at 47.

**SO ORDERED.**

**E N T E R:**

s/Clifton L. Corker  
United States District Judge