

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

JASON PROUDLOVE,

Petitioner,

v.

3:10-cv-259

JIM MORROW, Warden,

Respondent.

MEMORANDUM

This is a petition for the writ of habeas corpus pursuant to 28 U.S.C. § 2254, in which petitioner challenges his 1998 Sevier County, Tennessee, convictions for rape of a child and aggravated sexual battery. Petitioner filed a prior petition challenging the same convictions, which petition was dismissed as untimely. *Jason Proudlove v. James Dukes, Warden*, Civil Action No. 3:02-cv-36 (E.D. Tenn. February 15, 2002) (order dismissing case as untimely).

Petitioner cannot file a second or successive § 2254 petition in a district court until he has moved in the United States Court of Appeals for the Sixth Circuit for an order authorizing the district court to consider the petition. 28 U.S.C. § 2244(b). This court has not received an order from the Sixth Circuit authorizing the court to consider the pending petition. Accordingly, this action will be **DISMISSED** as untimely and as a second or successive habeas corpus petition.

A certificate of appealability **SHALL NOT ISSUE** in this action. 28 U.S.C. § 2253(c). The court will **CERTIFY** that any appeal from this action would not be taken in good faith and would be totally frivolous. *See* Rule 24 of the Federal Rules of Appellate Procedure.

AN APPROPRIATE ORDER WILL ENTER.

s/ Leon Jordan
United States District Judge