

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

DAVID ZIRKLE,)	
)	
Petitioner,)	
)	Case No. 3:13-cv-412
v.)	
)	Judge Curtis L. Collier
MICHAEL DONAHUE, Warden,)	
)	
Respondent.)	

MEMORANDUM

This *pro se* petition for the writ of habeas corpus under 28 U.S.C. § 2254 was filed *in forma pauperis* in the United States District Court for the Western District of Tennessee, Eastern Division, and transferred to this Court. Petitioner challenges his convictions, from the early 1990's, for first degree murder and especially aggravated robbery in the Criminal Court for Sevier County, Tennessee. Petitioner previously filed habeas petitions in this Court, each of which was dismissed as untimely. *See David Zirkle v. Joe Easterling, Warden*, Civil Action No. 3:12-cv-269 (E.D. Tenn. July 12, 2012) (order dismissing habeas petition as untimely); *David Zirkle v. Howard Carlton, Warden*, Civil Action No. 3:03-cv-308 (E.D. Tenn. June 12, 2003) (order dismissing habeas petition as untimely).

For the reasons set forth in the Court's prior orders, the current habeas petition will likewise be **DISMISSED** as untimely. Rule 4 of the Rules Governing Section 2254 Cases In The United States District Courts. A certificate of appealability **SHALL NOT ISSUE**. 28 U.S.C. § 2253(c); Rule 22(b) of the Federal Rules of Appellate Procedure. 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. The Court will further **DENY** petitioner leave to proceed *in forma pauperis* on appeal.

AN APPROPRIATE ORDER WILL ENTER.

/s/ _____
CURTIS L. COLLIER
UNITED STATES DISTRICT JUDGE