

United States District Court  
Southern District of Texas

**ENTERED**

January 31, 2017

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION

JOSHUA LANE,  
TDCJ #01510890,  
Petitioner,

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VS.  
LORIE DAVIS, Director,  
Texas Department of Criminal Justice,  
Correctional Institutions Division,  
Respondent.

§ CIVIL ACTION NO. 3:16-CV-113

**ORDER**

The petitioner, Joshua Lane (TDCJ #01510890), is a state inmate incarcerated in the Texas Department of Criminal Justice - Correctional Institutions Division (“TDCJ”). Lane filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging the validity of a state criminal conviction (Dkt. 1), along with a motion for leave to file a successive petition (Dkt. 2). Because the petition was his third to challenge the same conviction, the Court dismissed this habeas action without prejudice for lack of jurisdiction (Dkt. 4). *See United States v. Key*, 205 F.3d 773, 774 (5th Cir. 2000). The Court noted that, by statute, only the Fifth Circuit has the power to grant Lane’s motion for leave. *See* 28 U.S.C. § 2244(b)(3)(A).

Lane has requested that the Court either transfer this action to the Fifth Circuit or provide free copies of his filings so that he can send them to the Fifth Circuit—he claims to have lost the originals in a shakedown of his prison unit (Dkt. 5 and Dkt. 6). This Court may transfer Lane’s successive petition to the Fifth Circuit if such a transfer is in

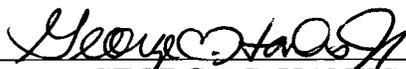
the interest of justice. *See In re Wilson*, 442 F.3d 872, 874 n.3 (5th Cir. 2006) (citing 28 U.S.C. § 1631). Under the circumstances, it will do so. From the looks of it, Lane has thoroughly briefed his request for permission to file a successive petition;<sup>1</sup> and the loss of his paperwork makes it difficult, if not impossible, for him to present the same arguments to the Fifth Circuit that he mistakenly presented to this Court.

Based on the foregoing, the Court **ORDERS** as follows:

1. Lane's motion for a transfer (Dkt. 5) is **GRANTED**. The District Clerk shall reopen this case and transfer this docket to the United States Court of Appeals for the Fifth Circuit pursuant to 28 U.S.C. § 1631.
2. Lane's motion for copies (Dkt. 6) is **DENIED** as moot.

The Clerk shall provide a copy of this order to the parties and to the Clerk of Court of the United States Court of Appeals for the Fifth Circuit.

SIGNED at Galveston, Texas, on January 30, 2017.

  
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GEORGE C. HANKS, JR.  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> This Court, of course, expresses no opinion on that request.