

United States District Court
Southern District of Texas

ENTERED

December 21, 2016

David J. Bradley, Clerk

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

SHDRICK ALEXANDER,

Petitioner,

VS.

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

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CIVIL ACTION NO. 3:16-CV-353

ORDER OF DISMISSAL

The petitioner, Shedrick Alexander, is a parolee who has filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging the validity of a state criminal conviction. After reviewing all of the pleadings and the applicable law under Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, the Court concludes that this case must be **DISMISSED** without prejudice for lack of jurisdiction. Alexander has filed at least one other federal habeas petition challenging his conviction for aggravated robbery. *See* Southern District of Texas Case Number 3:08-CV-221. That petition was dismissed as time-barred (Case Number 3:08-CV-221 at Dkt. 10, Dkt. 12). If a federal habeas petition is dismissed as time-barred, a subsequent federal habeas petition challenging the same conviction is a successive petition within the meaning of 28 U.S.C. § 2244(b). *In re Flowers*, 595 F.3d 204, 205 (5th Cir. 2009).

An applicant wishing to file a successive federal habeas application with a district court must first “move in the appropriate court of appeals for an order authorizing the

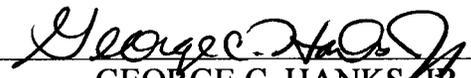
district court to consider the application.” 28 U.S.C. § 2244(b)(3)(A). Alexander must obtain authorization from the Fifth Circuit before filing this petition. Until he obtains that authorization, this Court lacks jurisdiction over the petition. *United States v. Key*, 205 F.3d 773, 774 (5th Cir. 2000).

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

1. The habeas corpus petition (Dkt. 1) is **DISMISSED WITHOUT PREJUDICE** for lack of jurisdiction, and this docket is closed.
2. A certificate of appealability is **DENIED**.
3. All pending motions are **DENIED** as moot.

The Clerk shall provide a copy of this order to the parties.

SIGNED at Galveston, Texas, on December 20, 2016.



GEORGE C. HANKS, JR.
UNITED STATES DISTRICT JUDGE