

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

ROGER LEE HARRELL,

Petitioner,

v.

Civil Action No. 3:13CV153

COMMONWEALTH OF VIRGINIA,

Respondent.

MEMORANDUM OPINION

By Memorandum Opinion and Order entered on July 21, 2006 the Court denied a petition under 28 U.S.C. § 2254 by Roger Lee Harrell challenging his Virginia convictions of burglary, wearing a mask in public, two counts of robbery, and three counts of abduction. Harrell v. Virginia, 3:05CV636 (E.D. Va. July 21, 2006). On March 11, 2013, the Court received another 28 U.S.C. § 2254 petition from Harrell challenging the same convictions ("March 11, 2013 Petition").

The Antiterrorism and Effective Death Penalty Act of 1996 restricted the jurisdiction of the district courts to hear second or successive applications for federal habeas corpus relief by prisoners attacking the validity of their convictions and sentences by establishing a "gatekeeping mechanism." Felker v. Turpin, 518 U.S. 651, 657 (1996) (internal quotation marks omitted). Specifically, "[b]efore a second or successive application permitted by this section is filed in the district

court, the applicant shall 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). Because the Court has not received authorization from the Fourth Circuit to file the March 11, 2013 Petition, the action will be dismissed for want of jurisdiction.

An appeal may not be taken from the final order in a § 2254 proceeding unless a judge issues a certificate of appealability ("COA"). 28 U.S.C. § 2253(c)(1)(A). A COA will not issue unless a prisoner makes "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). This requirement is satisfied only when "reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were 'adequate to deserve encouragement to proceed further.'" Slack v. McDaniel, 529 U.S. 473, 484 (2000) (quoting Barefoot v. Estelle, 463 U.S. 880, 893 & n.4 (1983)). Harrell fails to satisfy this standard. Accordingly, a certificate of appealability will be denied.

The Clerk is directed to send a copy of this Memorandum Opinion to Harrell.

Date: October 1, 2013
Richmond, Virginia

/s/ REP
Robert E. Payne
Senior United States District Judge