CLERK'S OFFICE U.S. DIST. COURT
AT ROANOKE, VA
FILED

OCT 02 2013

JULIA C. DUDLEY, CLERK
BY:
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

JAMES FERLON CLARK,	)	**CASE NO. 7:13CV00450**
	)	
Petitioner,	)	
v.	)	**MEMORANDUM OPINION**
	)	
	)	
DIRECTOR OF THE DEPARTMENT OF CORRECTIONS,	)	**By: Glen E. Conrad**
	)	**Chief United States District Judge**
Respondent.	)	

James Ferlon Clark, a Virginia inmate proceeding pro se, filed this petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, challenging the August 2007 judgment of the Pulaski County Circuit Court under which he stands convicted of multiple counts of rape and abduction and related charges and sentenced to 320 years in prison. This court's record indicates that Clark previously filed a § 2254 petition concerning the same convictions, Clark v. Director, Civil Action No. 7:10CV00006 (W.D. Va. Sept. 13, 2010), appeal dism'd, 411 Fed. App'x 631 (Feb. 18, 2011).[1] Thus, Clark's current petition is a subsequent one, falling under the prohibition in 28 U.S.C. § 2244(b) against a second or successive petition.

Pursuant to § 2244(b), a federal district court may consider a second or successive § 2254 petition only upon specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the petition meet certain criteria. § 2244(b). Because Clark has not obtained such certification by the Court of Appeals, the court will dismiss the petition without prejudice as successive. An appropriate order will enter this day.

The clerk is directed to send copies of this memorandum opinion and accompanying order to petitioner.

ENTER: This 1st day of October, 2013.

Chief United States District Judge

[1] Clark also previously filed a civil action challenging the validity of his confinement on these convictions, seeking to be allowed to present witnesses about these matters; the court construed and dismissed this case as a successive § 2254 petition. See Clark v. Director, 7:11CV00274 (W.D. Va. June 16, 2011).

Clark v. Director Of The Department Of Corrections

Dockets.Justia.com