


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

MAR 13 2018

JULIA C. DUDLEY, CLERK
BY: 
DEPUTY CLERK

ANTHONY ANTOINE FITTS,
Petitioner,

Civil Action No. 7:18 -cv-00028

v.


MEMORANDUM OPINION

HAROLD W. CLARKE,
Respondent.

By: Hon. Michael F. Urbanski
Chief United States District Judge

Anthony Antoine Fitts, a Virginia inmate proceeding pro se, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 to challenge his convictions entered by the Circuit Court of Danville for first degree murder and the use of a firearm during the murder. Court records indicate that Petitioner previously filed a § 2254 petition about the same convictions in Fitts v. Johnson, Civil Action No. 7:11-cv-00012 (W.D. Va. Apr. 4, 2011). Thus, Petitioner's current petition is a subsequent one, falling under the prohibition in 28 U.S.C. § 2244(b) against a second or successive petition. Cf. United States v. Hairston, 754 F.3d 258, 262 (4th Cir. 2014). Pursuant to this section, a federal district court may consider a second or successive § 2254 petition only upon specific certification from a United States Court of Appeals that claims in the subsequent petition meet certain criteria. 28 U.S.C. § 2244(b). Petitioner does not establish that the instant petition is not successive or that he has obtained that certification. See, e.g., In re Williams, 444 F.3d 233, 235 (4th Cir. 2006). Accordingly, the court dismisses the petition without prejudice as successive. Based upon the finding that Petitioner has not made the requisite substantial showing of a denial of a constitutional right as required by 28 U.S.C. § 2253(c) and Slack v. McDaniel, 529 U.S. 473, 484 (2000), a certificate of appealability is denied.

ENTER: This 13th day of March, 2018.


Chief United States District Judge