

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

JAMES DALE DUNCAN,

Petitioner

v.

CIVIL ACTION NO. 2:08-1304

DAVID BALLARD, Warden,
Mount Olive Correctional Complex,

Respondent

MEMORANDUM OPINION AND ORDER

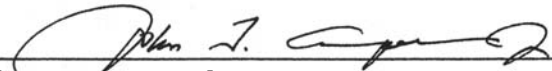
Pending is a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, filed November 20, 2008.

On January 30, 2009, respondent moved to dismiss the petition as successive. On February 24, 2009, movant sought permission from the court of appeals to proceed in this court with his successive petition. On March 6, 2009, the court of appeals denied petitioner's request. On April 7, 2009, petitioner's request for reconsideration or rehearing was likewise denied by the court of appeals.

The court, accordingly, ORDERS that the petition be, and it hereby is, denied. It is further ORDERED that this action be, and it hereby is, dismissed and stricken from the docket.

The Clerk is directed to forward copies of this written opinion and order to the pro se petitioner, all counsel of record, and the United States Magistrate Judge.

DATED: May 8, 2009



John T. Copenhaver, Jr.
United States District Judge