

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

JAMES ALEXANDER LOGAN,

Petitioner,

v.

Case No. 3:19-cv-619-J-32MCR

STATE OF FLORIDA CORP., et al.,

Respondents.

ORDER OF DISMISSAL WITHOUT PREJUDICE

Petitioner, an inmate of the Florida penal system, initiated this case by filing a civil rights complaint form (Doc. 1). However, he challenges a state court conviction and sentence, alleging that the trial court lacked jurisdiction because the judge “committed treason.” It appears that Petitioner is challenging a 2000 state court (Hendry County, Florida) judgment of conviction for which he is serving a life term of incarceration.

The Court previously adjudicated Petitioner’s federal habeas claims challenging this conviction. See James Alexander Logan v. Warden M. Hicks, Order (Doc. 29), No. 2:06-cv-335-UA-SPC (May 5, 2009). Thus, this Court has no authority to consider the claims raised by Petitioner without prior authorization from the Eleventh Circuit Court of Appeals. See 28 U.S.C. § 2244(b)(3)(A) (requiring a petitioner to “move in the appropriate court of appeals for an order authorizing the district court to consider” the filing of “a second or successive application”); Insignares v. Sec’y, Fla. Dep’t of Corr., 755 F.3d 1273, 1278 (11th Cir. 2014) (finding that “[s]ubject to [certain] exceptions[,] .

. . a district judge lacks jurisdiction to decide a second or successive petition filed without [the Eleventh Circuit's] authorization"). A review of the Eleventh Circuit's docket does not show that Petitioner has filed a request to file a second or successive habeas petition. Therefore, this case will be dismissed without prejudice to Petitioner's right to file a new petition if he obtains the required authorization from the Eleventh Circuit. Further, considering the nature of the relief Petitioner seeks, the Court finds that the division of his conviction and sentencing is the more appropriate venue for this cause rather than the division of his confinement. Therefore, if Petitioner obtains the required authorization to file a successive § 2254 petition, he should do so in the Fort Myers Division of this District.

Accordingly, it is

ORDERED AND ADJUDGED:

1. This case is **DISMISSED without prejudice**.
2. The Clerk of the Court shall enter judgment dismissing this case without prejudice, terminate any pending motions, and close the case.
3. If Petitioner appeals the dismissal of the case, the Court denies a certificate of appealability.¹ Because this Court has determined that a certificate of

¹ This Court should issue a certificate of appealability only if Petitioner makes "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). To make this substantial showing, Petitioner "must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong," Tennard v. Dretke, 542 U.S. 274, 282 (2004) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)), or that "the issues presented were 'adequate to deserve encouragement to proceed further,'" Miller-El v. Cockrell, 537 U.S. 322, 335-36 (2003) (quoting Barefoot v. Estelle, 463 U.S. 880, 893 n.4 (1983)). Here, after consideration of the record as a whole, a certificate of appealability is not warranted.

appealability is not warranted, the Clerk shall terminate from the pending motions report any motion to proceed on appeal as a pauper that may be filed in this case. Such termination shall serve as a denial of the motion.

4. The Clerk shall send Petitioner an Application for Leave to File a Second or Successive Habeas Corpus Petition. If he desires to file a second or successive habeas petition in this Court, he must complete the application and file it in the Eleventh Circuit Court of Appeals which will decide whether to allow it.

DONE AND ORDERED at Jacksonville, Florida, this 4th day of June, 2019.



TIMOTHY J. CORRIGAN
United States District Judge

Jax-7

c:

James Alexander Logan, #Y00683