

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

CHRIS JACOBS III,

Petitioner,

ORDER

v.

09-cv-0032-bbc

PETER HUIBREGSTE, Warden,
Wisconsin Secure Program Facility,

Respondent.

Chris Jacobs III has filed a document styled as a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. I have granted his application for leave to proceed in forma pauperis in a separate order. The petition is before the court for preliminary review pursuant to Rule 4 of the Rules Governing Section 2254 Cases.

A federal court may grant habeas relief to a state prisoner only if he “is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a). In general, a state prisoner is allowed only one opportunity to seek federal habeas relief from a conviction. If a state prisoner seeks to bring a “second or successive” challenge to that same conviction, then he must first seek authorization from the court of appeals. 28 U.S.C. § 2244(b)(3)(A).

In this case, it appears that petitioner is challenging his 1998 conviction and sentence in the Circuit Court for Marathon County for kidnapping and false imprisonment.

Petitioner filed a habeas corpus petition challenging this same conviction and sentence in 2006. On August 29, 2006, District Judge John Shabaz dismissed the petition with prejudice after determining that it was untimely. Jacobs v. Schneider, 06-C-74-S, Op. and Order, dkt. #23 (W.D. Wis. Aug. 29, 2006). Thus, the instant petition constitutes a second or successive petition requiring prior authorization from the court of appeals. Because petitioner did not obtain that authorization before he filed his petition, this court lacks jurisdiction to consider it.

ORDER

IT IS ORDERED that Chris Jacob III's petition for a writ of habeas corpus is DISMISSED WITHOUT PREJUDICE as an unauthorized successive petition over which this court lacks jurisdiction.

Entered this 28th day of January, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge