

**UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
OHIO, EASTERN DIVISION**

Asadi-Ousley v. Mackey

Asadi-Ousley · No. 1:24CV1906 · Decided December 15, 2025

OPINION

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO EASTERN DIVISION ASA ASADI-OUSLEY,) CASE NO. 1:24CV1906) Petitioner,) JUDGE CHRISTOPHER A. BOYKO) vs.)) MISTY MACKEY, WARDEN,) MEMORANDUM OF OPINION) AND ORDER Respondent.) CHRISTOPHER A. BOYKO, J: Petitioner Asa Asadi-Ousley, through counsel, filed a Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2254 on October 31, 2024.

(ECF DKT #1). The matter was referred to the assigned Magistrate Judge on April 1, 2025, under Local Rule 72.2 to prepare a report and recommendation. On May 16, 2025, Respondent Misty Mackey filed a motion to transfer Petitioner’s Habeas Petition to the Sixth Circuit Court of Appeals as a second or successive petition pursuant to 28 U.S.C. §§ 1631 and 2244(b)(3)(A).

(ECF DKT #5). This matter is now before the Court on the Magistrate Judge’s Report and Recommendation (ECF DKT #7), recommending that the Court GRANT Respondent’s Motion and transfer the captioned Petition to the Sixth Circuit Court of Appeals pursuant to 28 U.S.C. §§ 1631 and 2244(b)(3)(A). Objections to the Report and Recommendation were due by September 24, 2025.

Petitioner has not filed an objection to the Report and Recommendation. LAW AND ANALYSIS Second or Successive Habeas Petitions 28 U.S.C. § 2244(b)(2), as amended by the Antiterrorism and Effective Death Penalty Act, Pub. L. No. 104-132, 110 Stat. 1214 (1996) (“AEDPA”), provides that a claim presented in a “second or successive” habeas petition that was not presented in a prior petition “shall be dismissed” unless: (1) the claim relies on a new rule of constitutional law made retroactive to cases on collateral review by the Supreme Court; or (2) the petitioner could not have discovered the factual predicate for the claim previously through the exercise of due diligence and the facts underlying the claim, if proven, would establish by clear and convincing evidence that no reasonable factfinder would have found the petitioner guilty absent the constitutional error.

28 U.S.C. § 2244(b)(2)(A)-(B). 28 U.S.C. § 2244(b)(3) further provides that, before a petitioner may file a second or successive petition in the district court, he or she must file a motion in the court of appeals for that district for an order authorizing the district court to consider the petition. 28 U.S.C. § 2244(b)(3)(A). “When a petitioner ignores this provision and files a ‘second or

successive' application in the district court without authorization, the district court lacks jurisdiction to hear the petitioner's claims." *Askew v. Bradshaw*, 636 F. App'x 342, 346 (6th Cir.

2016) (citing *Burton v. Stewart*, 549 U.S. 147, 149 (2007) (per curiam)). Accordingly, the Sixth Circuit has held that, "when a prisoner has sought § 2244(b)(3) permission from the district court, or when a second or successive petition for habeas corpus relief... is filed in the district court without § 2244(b)(3) authorization from this court, the district court shall transfer the document to this -2- court pursuant to 28 U.S.C. § 1631." *In re Sims*, 111 F.3d 45, 47 (6th Cir.

1997). No Objection to Report and Recommendation Federal Rule of Civil Procedure 72(b) provides that objections to a report and recommendation must be filed within fourteen days after service. FED. R. CIV. P. 72(b)(2). Petitioner has failed to timely file any such objections.

Therefore, the Court must assume that Petitioner is satisfied with the Magistrate Judge's recommendation. Any further review by this Court would be duplicative and an inefficient use of the Court's limited resources. *Thomas v. Arn*, 474 U.S. 140, 155 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981). CONCLUSION Accordingly, the Court ADOPTS the Report and Recommendation (ECF DKT #7) of the Magistrate Judge; FINDS that it is without authority to review the merits of Petitioner's claims; GRANTS Respondent's Motion (ECF DKT #5); and TRANSFERS Petitioner Asadi-Ousley's Petition to the Sixth Circuit Court of Appeals pursuant to 28 U.S.C. §§ 1631 and 2244(b)(3)(A) for review and further proceedings.

IT IS SO ORDERED. s/Christopher A. Boyko CHRISTOPHER A. BOYKO United States District Judge Dated: December 15, 2025 --33--