

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

ANTHONY CARTER, :
Petitioner, :
 :
v. : PRISONER
 : Case No. 3:04cv1691 (JBA)
 :
JAMES DZURENDA and :
THERESA LANTZ, :
Respondents. :

RULING ON MOTION FOR CERTIFICATE OF APPEALABILITY

The petitioner, Anthony Carter, is currently incarcerated at the Cheshire Correctional Institution in Cheshire, Connecticut. Carter seeks leave to file a second or successive federal habeas petition.¹

Before a petitioner may bring a "second or successive" habeas petition, he must "move in the appropriate court of appeals for an order authorizing the district court to consider the application." 28 U.S.C. § 2244(b)(3)(A). The statute does not define "second or successive." This requirement is jurisdictional. See Burton v. Stewart, 549 U.S. 147, 149, 157 (2007) (per curiam). As a general rule, second or successive petitions will be dismissed. There are, however, exceptions that the Court of Appeals may apply to authorize a second or successive petition to proceed. See 28 U.S.C. § 2244(b)(2).

¹Carter's motion was incorrectly docketed as a motion for certificate of appealability filed by the respondent.

Carter has incorrectly filed his motion for leave to file a second or successive petition in this court rather than the Court of Appeals. The Clerk is directed to transfer the motion to the Court of Appeals for the Second Circuit to enable that court to determine whether the petitioner should be permitted to file another petition in the district court.

It is so ordered.

/s/ _____
Janet Bond Arterton
United States District Judge

Dated at New Haven, Connecticut: December 11, 2012.