



Kyron Darell Benson v. Shane Place

2017 | Cited 0 times | E.D. Michigan | January 11, 2017

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UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN

SOUTHERN DIVISION KYRON DARELL BENSON, Petitioner, Civil No. 2:16-CV-11543 H O N O R A B L E P A U L D . B O R M A N v. U N I T E D S T A T E S D I S T R I C T J U D G E S H A N E P L A C E, Respondent, _____/

OPINION AND ORDER DENYING THE MOTION FOR RECONSIDERATION Kyron Darell Benson, (“Petitioner”), filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his conviction for first-degree premeditated murder, Mich. Comp. Laws § 750.316; felon in possession of a firearm, Mich. Comp. Laws § 750.224f; and possession of a firearm in the commission of a felony (felony-firearm), Mich. Comp. Laws § 750.227b. Because petitioner had challenged these convictions in a prior habeas petition, this Court ordered that the case be transferred to the United States Court of Appeals for authorization to file a successive habeas petition pursuant to 28 U.S.C. § 2244(b)(3)(A). Petitioner’s case remains pending in the Sixth Circuit. See *In re Benson*, U.S.C.A. No. 16-2732. Petitioner has now filed a petition or motion for reconsideration. For the reasons that follow, the motion is DENIED. The Court denies petitioner’s motion for reconsideration, because petitioner’s case remains pending before the Sixth Circuit. The Sixth Circuit has yet to grant petitioner permission to file a second or successive petition or to issue a ruling that petitioner’s current habeas petition is not a second or successive petition for which authorization is required, pursuant to § 2244(b)(3)(A). Case 2:16-cv-11543-PDB-SDD ECF No. 10, PageID.1735 Filed 01/11/17 Page 1 of 2

2 A district court loses jurisdiction over a state prisoner’s habeas petition when it transfers it to Court of Appeals on the ground that it is a second or successive petition. *Jackson v. Sloan*, 800 F. 3d 260, 261 (6th Cir. 2015). This Court thus lacks jurisdiction pursuant to 28 U.S.C.A. §§ 1631 and 2244(b)(3)(A) to consider petitioner’s motion for reconsideration of the transfer order. *Id.*, at 261-62. IT IS HEREBY ORDERED that the motion for reconsideration (Dkt. # 9) is DENIED. SO ORDERED. s / P a u l D . B o r m a n

PAUL D. BORMAN U N I T E D S T A T E S D I S T R I C T J U D G E DATE: January 11, 2017

CERTIFICATE OF SERVICE The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on s /



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Deborah Tofil Deborah Tofil Case Manager (313)234-5122 Case 2:16-cv-11543-PDB-SDD
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