

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

WENDELL LONG

Petitioner

v.

JAMES GRACE, et al.,

Defendant.

CIVIL ACTION

No. 06-cv-2498

MEMORANDUM AND ORDER

On June 20, 2006, petitioner filed the above-captioned petition in this court seeking Habeas Corpus relief pursuant to 28 U.S.C. §2254. Petitioner has filed a previous petition in this court pursuant to 28 U.S.C. §2254, labeled 95-cv-1862, which attacked the same conviction and/or sentence, and which was considered, and denied, on the merits. In such circumstances, the Antiterrorism and Effective Death Penalty Act of 1996, 28 U.S.C. §§2241- 2266, provides in relevant part that before such a second or successive petition is filed in the district court, the prisoner must first get permission to file in the district court from the circuit court, pursuant to 28 U.S.C. §2244(b)(3)(A), and that without such circuit permission, the district court lacks subject matter jurisdiction to consider such a habeas petition. Stewart v. Martinez-Villaeral, 523 U.S. 637 (1998); Felker v. Turpin, 518 U.S. 651 (1996); Benchoff v. Colleran, 404 F.3d 812 (3d Cir. 2005); In re Minarik, 166 F.3d 591 (3d Cir. 1999).

Accordingly, this _____ Day of _____ 2006, it is hereby **ORDERED** as follows:

1. This court's Order of July 21, 2006 (labeled as Document #4 in 06-cv-2498) is **VACATED**.
2. This court's Order of July 24, 2006 (labeled as Document #5 in 06-cv-2498) is **VACATED**.
3. This civil action is **DISMISSED WITHOUT PREJUDICE** on the grounds that this court lacks subject matter jurisdiction over it.
4. The Clerk of the United States District Court for the Eastern District of Pennsylvania shall mark this matter as **CLOSED** in this court for all purposes, including statistics.

BY THE COURT:

S/ MARVIN KATZ

MARVIN KATZ, S.J.

