

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

STANTON S. HOLT,

Petitioner,

v.

CASE NO. 08-3145-SAC

DAVID MCKUNE, et al.,

Respondents.

O R D E R

This matter is before the court on a petition for a writ of habeas corpus under 28 U.S.C. § 2254, filed pro se by an inmate in a Kansas correctional facility. Also before the court is petitioner's motion for leave to proceed in forma pauperis in this habeas action.

Having examined the petition and court records, the court finds this is a successive application for habeas corpus relief concerning petitioner's conviction in Geary County Case No. 93-CR-430. See Holt v. Hannigan, Case No. 98-3039-DES (petition denied), certificate of appealability denied and appeal dismissed (10th Cir. Appeal No. 01-3086).

Pursuant to 28 U.S.C. § 2244(b)(3), petitioner must apply to the Tenth Circuit Court of Appeals for an order authorizing this court to consider petitioner's second or successive habeas application. This court has no jurisdiction to entertain such an application absent the circuit court's authorization. Because petitioner does not allege or demonstrate that he has obtained such authorization, the court concludes this action should be transferred

to the Tenth Circuit pursuant to 28 U.S.C. § 1631. Coleman v. United States, 106 F.3d 339, 341 (10th Cir. 1997). See also Holt v. Roberts, Case No. 04-3102-SAC (transferred to 10th Circuit as second or successive petition)(June 8, 2004).

IT IS THEREFORE ORDERED that petitioner's motion for leave to proceed in forma pauperis is provisionally granted.

IT IS FURTHER ORDERED that the clerk of the court is to transfer this action to the United States Court of Appeals for the Tenth Circuit for processing under 28 U.S.C. § 2244(b)(3).

IT IS SO ORDERED.

DATED: This 24th day of June 2008 at Topeka, Kansas.

s/ Sam A. Crow
SAM A. CROW
U.S. Senior District Judge