

United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

Submitted March 3, 2023

Decided March 27, 2023

Before

DIANE S. SYKES, *Chief Judge*

JOEL M. FLAUM, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

No. 23-1406

JAMES F. NOEL, JR.,
Applicant,

v.

RON NEAL,
Respondent.

On Motion for an Order Authorizing the
District Court to Entertain a Second or
Successive Petition for Collateral Review.

ORDER

James Noel applies for leave to file a successive collateral attack on his Indiana conviction and 25-year prison sentence for attempted murder. We deny that request. And in keeping with our prior order cautioning Noel about frivolous and repetitive litigation, we impose a sanction.

The district court denied Noel's first petition for a writ of habeas corpus under 28 U.S.C. § 2254, and we denied a certificate of appealability. No. 1:16-cv-3116-JMS-MJD (S.D. Ind. Apr. 5, 2017); No. 17-1781 (7th Cir. Oct. 31, 2017). Noel followed up with another petition that the district court dismissed as successive; here again, we denied a certificate of appealability. No. 1:18-cv-00343-TWP-DLP (S.D. Ind. Nov. 1, 2018); No. 18-3596 (7th Cir. Aug. 23, 2019). Not long after that, Noel submitted a further

petition that the district court dismissed as successive. No. 1:20-cv-01588-RLY-TAB (S.D. Ind. Aug. 25, 2020). Next, we denied three of Noel's requests for leave to file additional collateral attacks. No. 20-2819 (7th Cir. Oct. 20, 2020); No. 21-1606 (7th Cir. Apr. 29, 2021); No. 22-2618 (7th Cir. Sept. 30, 2022). In the last of these denial orders, we told Noel that continuing to send us frivolous or repetitive papers would risk monetary sanctions and a filing bar.

Now, in yet another application for leave (together with a motion to proceed *in forma pauperis*, which sketches Noel's argument), he asserts that his charging documents and police investigative papers were not properly file-stamped, and that this omission somehow deprived the trial court of jurisdiction. But the habeas statutes permit a successive collateral attack only if the proposed claim rests either on a new rule of constitutional law that the Supreme Court has made retroactive, 28 U.S.C. § 2244(b)(2)(A), or on previously unavailable evidence that clearly and convincingly establishes the applicant's innocence of the underlying crime, *id.* § 2244(b)(2)(B). And Noel's file-stamp theory neither relies on a new constitutional rule nor establishes innocence.

We therefore **DENY** authorization and **DISMISS** Noel's application. Because this kind of application does not require a filing fee, we **DENY** as unnecessary Noel's request for leave to proceed *in forma pauperis*. Finally, in keeping with our prior warning, we impose the following **SANCTION**:

Noel is fined \$500. Until he pays that sum in full to the clerk of this court, any collateral attack on his attempted-murder conviction or sentence that he submits to any federal court of this circuit will be returned unfiled. Any applications for leave to file successive collateral attacks on this conviction or sentence will be deemed denied 30 days after filing unless the court orders otherwise. *See Alexander v. United States*, 121 F.3d 312 (7th Cir. 1997).