

In The  
Supreme Court Of The United States

No. \_\_\_\_\_  
\_\_\_\_\_

Reginald C. Scott, Petitioner

v.

Superintendent Mahanoy, SCI., et.al.

On Petition For Writ of Certiorari To The United States  
Court Of Appeals For The Third Circuit

# APPENDICES

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Appendix A- Decision of the United States Court of Appeals.

Appendix B- Decision of The United States District Court.

Appendix C- Decision of The United States Court of Appeals.

Appendix D- Other documentation for consideration;

Two (2) Pages of Court's jury instructions and  
Order To Release on Parole.

A

OFFICE OF THE CLERK

PATRICIA S. DODSZUWEIT

CLERK



UNITED STATES COURT OF ~~APPEALS~~  
FOR THE THIRD CIRCUIT  
21400 UNITED STATES COURT ~~HOUSE~~  
601 MARKET STREET  
PHILADELPHIA, PA 19106-1777  
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May 30, 2023

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Mr. Reginald C. Scott  
Mahanoy SCI  
301 Grey Line Drive  
Frackville, PA 17931

RE: Reginald Scott v. Superintendent Mahanoy SCI, et al  
Case Number: 23-1253  
District Court Case Number: 3-23-cv-00058

ENTRY OF JUDGMENT

Today, **May 30, 2023** the Court issued a case dispositive order in the above-captioned matter which serves as this Court's judgment. Fed. R. App. P. 36.

If you wish to seek review of the Court's decision, you may file a petition for rehearing. The procedures for filing a petition for rehearing are set forth in Fed. R. App. P. 35 and 40, 3rd Cir. LAR 35 and 40, and summarized below.

Time for Filing:

14 days after entry of judgment.

45 days after entry of judgment in a civil case if the United States is a party.

CLD-144

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 23-1253

REGINALD C. SCOTT, Appellant

VS.

SUPERINTENDENT MAHANAY SCI; ET AL.

(M.D. Pa. Civ. No. 3-23-cv-00058)

Present: SHWARTZ, MATEY, and FREEMAN, Circuit Judges

Submitted is Appellant's notice of appeal, which may be treated as a request for a certificate of appealability pursuant to 28 U.S.C. § 2253(c) in the above-captioned case.

Respectfully,

Clerk

ORDER

Appellant's request for a certificate of appealability is denied. Jurists of reason would not debate the District Court's dismissal of Appellant's habeas petition for lack of jurisdiction because it was an unauthorized second or successive petition. *See Slack v. McDaniel*, 529 U.S. 473, 478 (2000); *Burton v. Stewart*, 549 U.S. 147, 157 (2007) (per curiam).

By the Court,

s/ Paul B. Matey

Circuit Judge

Dated: May 30, 2023

Sb/cc: Reginald C. Scott

Ryan H. Lysaght, Esq.



A True Copy:

*Patricia S. Dodszeweit*

Patricia S. Dodszeweit, Clerk  
Certified Order Issued in Lieu of Mandate

REGINALD C. SCOTT,  
Plaintiff/Petitioner

2022-07-18  
IN THE COURT OF COMMON PLEAS  
DAUPHIN COUNTY, PENNSYLVANIA

V.

CIVIL ACTION-LAW

COMMONWEALTH OF PENNSYLVANIA,  
FRANCIS T. CHARD, DA,  
JOSH SHAPIRO, AG  
BERNADETTE MASON, WARDEN,  
Defendants/Respondent

NO. 2022 CV 3900-MD

## ORDER

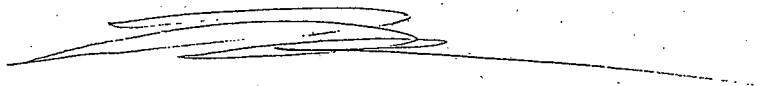
AND NOW, to wit, this 18<sup>th</sup> day of July 2022, upon review of the Petition for Writ of Habeas Corpus Ad Subjiciendum (hereinafter "Petition") filed by the Plaintiff/Petitioner, Reginald C. Scott, it is HEREBY ORDERED that Plaintiff/Petitioner's Petition is DENIED.

Despite Plaintiff/Petitioner's filing of a Petition for Leave to Proceed *In Forma Pauperis*, the Court reviewed his Petition and we find that, under 42 Pa. C.S.A. § 6503<sup>1</sup>, the Plaintiff/Petitioner's Petition is an improper filing. The Plaintiff/Petitioner has attempted to resurrect an otherwise untimely filing through his Petition when the proper vehicle for the averments alleged in his Petition is a Petition for Post-Conviction Relief. Additionally, the Post Conviction Relief Act specifically states that an "action established in this subchapter shall be the sole means of obtaining collateral relief and encompasses all other common law and statutory remedies for the same purpose that

<sup>1</sup> 42 Pa. C.S.A § 6503(b) states that where a person is restrained by virtue of sentence after conviction for a criminal offense, the writ of habeas corpus shall not be available if a remedy may be had by post-conviction hearing proceedings authorized by law.

exist when this subchapter takes effect, including habeas corpus.” 42 Pa. C.S. § 9542. Therefore, the Plaintiff/Petitioner’s proper method of recourse is ~~through~~ the Post Conviction Relief Act.

BY THE COURT:



\_\_\_\_\_  
Judge

Distribution:

Reginald C. Scott, AP-9778  
SCI-Mahanoy  
301 Morea Road  
Frackville, PA 19732

JUL 18 2022

I hereby certify that the foregoing is a true and correct copy of the original filed.

Matthew R. Krzyso  
Prothonotary

**B**

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

REGINALD C. SCOTT

:

Petitioner

:

CIVIL ACTION NO. 3:23-0058

v.

:

(JUDGE MANNION)

:

BERNADETTE MASON,

:

Respondent

ORDER

In accordance with this Court's memorandum issued this same day, **IT**

**IS HEREBY ORDERED THAT:**

1. Scott's unauthorized second or successive petition for writ of habeas corpus pursuant to 28 U.S.C. §2254 is **DISMISSED** for lack of jurisdiction.
2. A certificate of appealability is **DENIED**.
3. The Clerk of Court is directed to **CLOSE THIS CASE**.

*s/ Malachy E. Mannion*  
**MALACHY E. MANNION**  
United States District Judge

**DATE: January 25, 2023**

23-0058-01-Order



UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

REGINAL C. SCOTT, :  
 :  
 Petitioner : CIVIL ACTION NO. 3:23-0058  
 :  
 v. : (JUDGE MANNION)  
 :  
 BERNADETTE MASON, :  
 :  
 Respondent :

MEMORANDUM

Petitioner, Reginald C. Scott, an inmate confined in the Mahanoy State Correctional Institution, Frackville, Pennsylvania, filed the instant petition for writ of habeas corpus pursuant to 28 U.S.C. §2254. (Doc. 1). The filing fee has been paid. Petitioner challenges his 1975 conviction for second degree murder and robbery. Id. Specifically, Scott claims that “he received a sentence greater than the lawful maximum which is an illegal sentence.” Id. For the reasons that follow, the Court concludes that the petition is as an unauthorized “second or successive” habeas petition under the Anti-Terrorism and Effective Death Penalty Act (AEDPA), 28 U.S.C. §2244(b), and will dismiss the petition for lack of jurisdiction.

## I. Background

On March 24, 1975, a jury sitting in the Court of Common Pleas of Dauphin County found Scott guilty of one count of murder in the second degree and two counts of robbery. On June 23, 1975 he was sentenced to life imprisonment, followed by a ten to twenty year term of incarceration. While Scott did not pursue any direct appeal of his conviction, he has filed a number of petitions challenging the validity of his conviction. Scott's initial petition for post-conviction relief was filed on October 11, 1979, pursuant to the Pennsylvania Post-Conviction Hearing Act. On March 5, 1995, Scott filed a petition pursuant to the Pennsylvania Post-Conviction Relief Act.

Scott has previously challenged his 1975 conviction and sentence in the following actions: Scott v. Morgan, Civil No. 3:90-cv-1237 (M.D. Pa. Sept. 26, 1990) (§2254 habeas corpus petition dismissed), aff'd, No. 90-5872 (3d Cir. April 9, 1991)(denying certificate of appealability); Scott v. Domovich, Civil No. 3:93-cv-1607 (M.D. Pa. Feb. 25, 1994) (§2254 habeas corpus petition dismissed), aff'd, No. 94-7156 (3d Cir. June 6, 1994)(denying certificate of appealability); Scott v. Mechling, Civil No. 4:03-cv-1881 (M.D. Pa. April 8, 2004) (§2254 habeas corpus petition dismissed as untimely), aff'd, No. 04-2139 (3d Cir. Oct. 14, 2004)(denying certificate of appealability); Scott v. Klem, Civil No. 4:05-CV-1337, 2005 WL 1653165 (M.D. Pa. July 12, 2005) (barring the filing of a second or successive habeas petition unless the

petitioner secures leave of the applicable Court of Appeals to proceed); In re Reginald C. Scott, No. 09-1935 (3d Cir. May 14, 2009)(denying Scott's application to file a second or successive habeas corpus petition); In re Reginald D. Scott, No. 13-4202 (3d Cir. Feb. 28, 2014)(denying Scott's application to file a second or successive habeas corpus petition); Scott v. Kane, Civil No. 3:15-CV-2175 (M.D. Pa. Nov. 18, 2015) (§2254 habeas corpus petition dismissed as second or successive habeas corpus petition), aff'd, No. 15-3926 (3d Cir. April 13, 2016)(denying certificate of appealability); Scott v. Delbalso, Civil No. 3:17-CV-0253 (M.D. Pa. Feb. 15, 2017) (§2254 habeas corpus petition dismissed as second or successive habeas corpus petition), aff'd, No. 17-1931 (3d Cir. July 19, 2017)(denying certificate of appealability); Scott v. PA, Civil No. 3:18-CV-0251, 2018 WL 2045507 (M.D. Pa. May 1, 2018) (rejecting mandamus request where petitioner sought vacatur of criminal sentence).

On January 12, 2023, Scott filed the instant petition for writ of habeas corpus, again challenging his 1975 conviction based on "double jeopardy and merger." (Doc. 1).

## **II. Legal Standards**

Pursuant to 28 U.S.C. §2244(b)(1), if a habeas petitioner erroneously files a second or successive habeas application "in a district court without

the permission of a court of appeals, the district court's only option is to dismiss the petition or transfer it to the court of appeals pursuant to 28 U.S.C. §1631." Robinson v. Johnson, 313 F.3d 128, 139 (3d Cir. 2002). A habeas application is classified as second or successive within the meaning of 28 U.S.C. §2244 if a prior application has been decided on the merits, the prior and new applications challenge the same conviction, and the new application asserts a claim that was, or could have been, raised in a prior habeas application. See Benchoff v. Colleran, 404 F.3d 812, 817 (3d Cir. 2005); In re Olabodé, 325 F.3d 166, 169-73 (3d Cir. 2003).

### **III. Discussion**

A review of the instant petition reveals that it is a second or successive habeas application within the meaning of 28 U.S.C. §2244. Because Scott previously filed a federal habeas corpus petition challenging his 1975 conviction that was denied "on the merits," rather than on procedural grounds<sup>1</sup>, this new petition constitutes "a second or successive petition." As a result, Scott is required to seek an order from the Third Circuit Court of

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<sup>1</sup>See Scott v. Mechling, Civil No. 4:03-cv-1881 (M.D. Pa. April 8, 2004) (§2254 habeas corpus petition dismissed as untimely), aff'd, No. 04-2139 (3d Cir. Oct. 14, 2004)(denying certificate of appealability).

Appeals authorizing this Court to consider his petition. 28 U.S.C. §2244(b)(3)(A).

Petitioner does not assert that the Third Circuit Court of Appeals authorized the filing of the instant second or successive habeas petition. Thus, the Court lacks jurisdiction to consider the petition. See Robinson, 313 F.3d at 139. Consequently, the petition will be dismissed without prejudice to Petitioner's right to seek the necessary authorization from the Third Circuit Court of Appeals to file a second or successive habeas corpus petition.

#### **IV. Conclusion**

For the foregoing reasons, Scott's unauthorized second or successive petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254 is dismissed for lack of jurisdiction. The Court declines to issue a certificate of appealability because Petitioner has failed to make a "substantial showing of the denial of a constitutional right." 28 U.S.C. §2253(c)(2); 3d Cir. L.A.R. 22.2 (2011); United States v. Eyer, 113 F.3d 470 (3d Cir. 1997).

An appropriate Order will issue.

*s/ Malachy E. Mannion*  
**MALACHY E. MANNION**  
United States District Judge

**DATE: January , 2023**

22-0058-01

C

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

---

No. 23-1253

---

REGINALD C. SCOTT,  
Appellant

v.

SUPERINTENDENT MAHANAY SCI; ET AL.

---

On Appeal from the United States District Court  
for the Middle District of Pennsylvania  
(No. 3-23-cv-00058)  
District Judge: Honorable Malachy E. Mannion

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PETITION FOR REHEARING

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BEFORE: CHAGARES, *Chief Judge*, and JORDAN, HARDIMAN, GREENAWAY,  
JR., SHWARTZ, KRAUSE, RESTREPO, BIBAS, PORTER, MATEY, PHIPPS,  
FREEMAN, MONTGOMERY-REEVES, CHUNG, *Circuit Judges*

---

The petition for rehearing filed by appellant Reginald Scott in the above-captioned matter has been submitted to the judges who participated in the decision of this Court and to all other available circuit judges of the Court in regular active service. No judge who concurred in the decision asked for rehearing, and a majority of the circuit judges of the Court in regular active service who are not disqualified did not vote for rehearing by the Court en banc. It is now hereby **ORDERED** that the petition is **DENIED**.

BY THE COURT

s/ Paul B. Matey  
Circuit Judge

Dated: July 27, 2023  
Sb/cc: Reginald C. Scott  
Ryan H. Lysaght, Esq.  
Ronald Eisenberg, Esq.



UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 23-1253

REGINALD C. SCOTT,  
Appellant

VS.

SUPERINTENDENT MAHANAY SCI, ET AL.

(M.D. Pa. Civ. No. 3-23-cv-00058)

Present: MATEY, Circuit Judge

1. Motion for Leave to Amend Petition for Rehearing

Respectfully,

Clerk/sb

ORDER

The foregoing motion is **DENIED**.

By the Court,

s/ Paul B. Matey

Circuit Judge

Dated: July 27, 2023

Sb/cc: Reginald C. Scott

Ryan H. Lysaght, Esq.

Ronald Eisenberg, Esq.

**Additional material  
from this filing is  
available in the  
Clerk's Office.**