

FILED

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Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Grant Anderson,

Petitioner,

v.

United States of America *et al.*,

Respondents.

Civil Action No.

11 1672

MEMORANDUM OPINION

This action, brought *pro se*, is before the Court on petitioner's application for a writ of *habeas corpus*, accompanied by an application to proceed *in forma pauperis*. The Court will grant the application to proceed *in forma pauperis* and will dismiss the petition as untimely filed.

Petitioner is a former District of Columbia prisoner who is no stranger to this circuit and the U.S. Supreme Court. *See In re Anderson*, 511 U.S. 364 (1994) (observing, in denying leave to proceed *in forma pauperis* on a petition for an extraordinary writ in habeas, that "[p]etitioner is a prolific filer in this Court."); *Ibrahim v. District of Columbia*, 208 F.3d 1032, 1033 (D.C. Cir. 2000) (observing that plaintiff "has long been recognized as a 'prolific filer' in this and other courts; his complaints were so 'profuse and meritless' that in 1995 the district court enjoined him from filing any further complaint without first obtaining leave of court.") (citing *Anderson v. D.C. Public Defender Serv.*, 881 F. Supp. 663, 669-71 (D.D.C. 1995)).¹

Petitioner is challenging a prison sentence of 18 years to life imposed by the Superior Court of the District of Columbia on October 27, 1988. Pet. at 2. In the instant petition, he

¹ Petitioner is known also as Jibril L. Ibrahim. *See Ibrahim v. District of Columbia*, 208 F.3d 1032 (D.C. Cir. 2000) (case caption).

claims that “his first appeal of right attorney rendered [him] ineffective assistance by refusing to stay direct appeal and file a 23-110 motion raising ineffective assistance of trial counsel” Pet. at 4. Although it appears that petitioner raised or could have raised the foregoing claim in at least one of his many prior actions, *see generally Anderson v. D.C. Public Defender Serv.*, 881 F. Supp. 663, the Court need not dwell on this issue because of the untimeliness of the petition.

In *Williams v. Martinez*, the District of Columbia Circuit determined that D.C. Code § 23-110 does not bar a habeas petition challenging the effectiveness of appellate counsel “because the Superior Court lacks authority to entertain a section 23-110 motion challenging the effectiveness of appellate counsel.” 586 F.3d 995, 999 (D.C. Cir. 2009). Thus, “D.C. prisoners who challenge the effectiveness of appellate counsel through a motion to recall the mandate in the D.C. Court of Appeals will get a second bite at the apple in federal court,” *id.* at 1000, under “the standard set forth in 28 U.S.C. § 2254.” *Id.* at 1002. However, a petition under § 2254 must be filed within one year of: a) the date a judgment becomes final; (b) “the date on which the impediment to filing an application created by State action . . . is removed . . .”; (c) the date on which the Supreme Court recognized a new constitutional right and made it retroactive to cases on collateral review; or (d) the date “on which the factual predicate of the claim . . . presented could have been discovered through the exercise of due diligence.” 28 U.S.C. § 2244(d)(1).

Subsection (b) is the only date that could possibly apply to the instant petition. Assuming that the *Williams* decision removed an impediment to this Court’s habeas review of Superior Court judgments when it was finally decided on December 23, 2009 (*reh’g denied*), the petition

submitted on August 26, 2011, is barred by § 2244's one-year limitations period. Therefore, this action will be dismissed. A separate order accompanies this Memorandum Opinion.


United States District Judge

Date: September 9, 2011