

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

January 18, 2023

Christopher M. Wolpert
Clerk of Court

In re: ALVIN PARKER,

Movant.

No. 22-6209
(D.C. Nos. 5:96-CV-00335-T,
5:05-CV-01252-T & 5:13-CV-01365-D)
(W.D. Okla.)

ORDER

Alvin Parker seeks authorization to file a second or successive 28 U.S.C. § 2254 habeas application challenging his Oklahoma conviction for second degree murder on the basis of the prosecution's alleged withholding of exculpatory evidence—a declaration by a prosecution witness (Glen Briggs) recanting his trial testimony identifying Mr. Parker as the murderer.

In 2013, the court authorized Mr. Parker to file a second or successive habeas application based on the allegations that Mr. Briggs had recanted his trial testimony and the prosecution knew Mr. Brigg's trial testimony was false. *In re Parker*, No. 13-6254, Order at 1-2 (10th Cir. Dec. 5, 2013). The district court denied the authorized application because Mr. Parker failed to present credible evidence supporting his allegation that the prosecution knew the testimony was false. *See Parker v. Martin*, 589 F. App'x 866, 868-70 (10th Cir. 2014). This court denied a certificate of appealability. *Id.* at 870.

In 2015, this court denied two motions for authorization to file second or successive habeas applications raising claims concerning Mr. Briggs's perjury and

recantation and the prosecution's failure to disclose exculpatory evidence. *See In re Parker*, No. 15-6035, Order at 5 (10th Cir. Mar. 20, 2015); *In re Parker*, No. 15-6062, Order at 1-2 (10th Cir. Apr. 17, 2015); *In re Parker*, No. 15-6062, Order at 4-5 (10th Cir. May 18, 2015). After giving Mr. Parker notice and an opportunity to respond, the court imposed sanctions and ordered that "any further applications filed by Mr. Parker for leave to file additional collateral attacks on [the same conviction] will be deemed denied on the thirtieth day without a court order, unless this court orders otherwise." *In re Parker*, No. 15-6062, Order at 5-6 (10th Cir. May 18, 2015).

Mr. Parker has continued to seek authorization to file second or successive habeas applications raising claims concerning various witnesses' perjured trial testimony and the prosecution's failure to disclose exculpatory evidence, and the court has denied authorization. *See In re Parker*, No. 15-6141, Order at 2-3 (10th Cir. Aug. 10, 2015) (denying authorization to file a habeas application based on another witness's letter admitting he committed perjury and saying he told prosecutors before trial that Mr. Briggs had given Mr. Parker the murder weapon for safekeeping the day before Mr. Briggs was arrested); *In re Parker*, No. 15-6189, Order at 2 (10th Cir. Oct. 26, 2015) (denying authorization to file a habeas application based on another witness's letter recanting his trial testimony about what the shooter was wearing and claiming the prosecution knew his testimony was false); *In re Parker*, No. 16-6051, Order at 5 (10th Cir. Mar. 21, 2016) (denying authorization to file a habeas application based on the prosecution's failure to disclose that Mr. Briggs's brother revealed before trial that Mr. Briggs had told him about a third-party perpetrator and that a prosecutor silenced the

brother with a warning that Mr. Briggs would be sentenced to death if the brother said anything about this other perpetrator).

The August and October 2015 orders clarified the previous sanctions order. Specifically, the court ordered that “[i]f Mr. Parker files a future motion for authorization concerning this same underlying conviction or sentence in which he presents arguments in favor of authorization substantially similar to those presented here or in previous motions for authorization, the Clerk shall dismiss the motion for authorization without further notice.” *In re Parker*, No. 15-6141, Order at 2-3; *In re Parker*, No. 15-6189, Order at 2 (same).

Pursuant to that directive, the current motion, which seeks authorization to raise claims substantially similar to claims the court has already declined to authorize, is dismissed.

Entered for the Court

A handwritten signature in black ink, appearing to read 'Christopher M. Wolpert', with a long horizontal stroke extending to the right.

CHRISTOPHER M. WOLPERT, Clerk