

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 09-13215
Non-Argument Calendar

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| FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT JUNE 23, 2010 JOHN LEY CLERK |
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D. C. Docket No. 92-00135-CR-T-27-TGW

WILLIAM KEITH SCHANCK,

Petitioner-Appellant,

versus

UNITED STATES OF AMERICA,

Respondent-Appellee.

Appeal from the United States District Court
for the Middle District of Florida

(June 23, 2010)

Before CARNES, MARCUS and PRYOR, Circuit Judges.

PER CURIAM:

William Keith Schanck, a federal prisoner, appeals pro se the dismissal of

his petition for a writ of audita querela under the All Writs Act. 28 U.S.C. § 1651. The district court construed Schanck's petition as a motion to vacate, 28 U.S.C. § 2255, and denied the motion as successive. We affirm.

Schanck was convicted of four drug crimes and was sentenced to imprisonment for life. This Court affirmed his convictions. United States v. Schanck, No. 95-2179 (11th Cir. July 15, 1997). Schanck later moved to vacate his sentence, 28 U.S.C. § 2255, which the district court denied. Schanck requested a certificate of appealability, which both the district court and this Court denied.

Schanck petitioned for a writ of audita querela. Schanck argued that his sentence of life imprisonment was unconstitutional under the Fifth, Sixth, Eighth, and Fourteenth Amendments. The district court dismissed the petition.

The district court did not err by dismissing Schanck's petition. Because Schanck "is collaterally attacking his sentence as violating the United States Constitution, the proper avenue of relief is [section] 2255." United States v. Holt, 417 F.3d 1172, 1175 (11th Cir. 2005). Schanck previously filed a motion to vacate and failed to obtain permission from this Court to file a successive motion. 28 U.S.C. §§ 2244(b)(3)(A), 2255(h). "Without authorization, the district court lack[ed] jurisdiction to consider [Schanck's] second or successive petition." Farris v. United States, 333 F.3d 1211, 1216 (11th Cir. 2003).

The dismissal of Schanck's petition for a writ of audita querela is
AFFIRMED.