

IN THE CIRCUIT COURT OF SEVIER COUNTY, ARKANSAS

STACEY EUGENE JOHNSON

PETITIONER

v.

NO. CR-93-54


STATE OF ARKANSAS

RESPONDENT

ORDER

Now before the Court is Petitioner's Motion For Post-Conviction DNA testing pursuant to Arkansas Code Annotated §§ 16-112-201, *ET SEQ* and Request For Hearing. Johnson has already been provided testing under this statute. *See Johnson v. State*, 366 Ark. 390, 235 S.W.3d 872 (2006). Johnson's request for additional testing is presumptively untimely under Arkansas Code Annotated §16-112-202(10). In addition, on April 6, 2017, the Arkansas Supreme Court declined to recall its mandate and remand this case, No. CR-93-54, to this court for additional testing of the items sought to be tested in Johnson's motion filed before this court on April 13, 2017. Thus, the court believes it is both without jurisdiction and barred by the law of the case doctrine, to entertain this successive petition for testing. Johnson, moreover, has not established a chain of custody as required under the statute. Finally, Johnson has not established that the results of his proposed testing would significantly advance his claim of actual innocence, as required under the statute. For these reasons, Petitioner's motion is denied in its entirety. Because "the petition and the files and records of the proceeding conclusively demonstrate that the petitioner is entitled to no relief," Ark. Code Ann. § 16-112-205(a) (Repl. 2006), his request for an evidentiary hearing is denied.

IT IS SO ORDERED THIS 17 DAY OF APRIL, 2017.

  
CHARLES YEARGAN  
CIRCUIT JUDGE

2017 APR 17 P 2:55  
SEVIER COUNTY, AR  
CATHY SMITH, CIRCUIT CLERK