

of “newly discovered evidence” is an attempt to avoid the second/successive bar, that is an issue for the Court of Appeals to decide, not this Court. See 28 U.S.C. §§ 2244(b)(2)(B) & (3).

Accordingly, the Court will dismiss the Petition for lack of jurisdiction. See Rule 4, 28 U.S.C. foll. § 2254; *Robinson v. Johnson*, 313 F.3d 128, 139 (3d Cir. 2002). A separate Order will be entered.

May 14, 2013
DATE

Richard G. Andrews
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SAMUEL L. LAYTON,

Petitioner,

v.

PERRY PHELPS, Warden, and
ATTORNEY GENERAL OF THE
STATE OF DELAWARE,

Respondents.

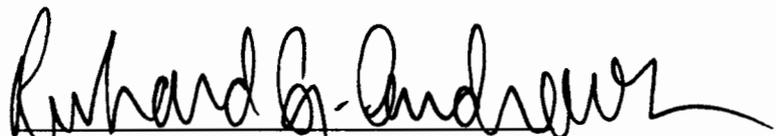
C.A. No. 13-378-RGA

ORDER

At Wilmington, this ^{14th} day of May, 2013, for the reasons set forth in the
Memorandum issued this date;

IT IS HEREBY ORDERED that:

1. Petitioner Samuel L. Layton's Petition For A Writ Of Habeas Corpus Pursuant To 28 U.S.C. § 2254 (D.I. 1) is **DISMISSED** as second or successive.
2. The Court declines to issue a certificate of appealability because Layton has failed to satisfy the standards set forth in 28 U.S.C. § 2253(c)(2).
3. The Clerk of the Court shall send a copy of this Memorandum and Order to Layton at his address on record. See Rule 4, 28 U.S.C. foll. § 2254.
4. The Clerk of the Court shall close this case.


UNITED STATES DISTRICT JUDGE