

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED
FEB 24 2012
Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

Ferdell Fabian Harvey,)
)
 Petitioner,)
)
 v.)
)
 Welmer Emerson,)
)
 Respondent.)

Civil Action No.

12 0300

MEMORANDUM OPINION

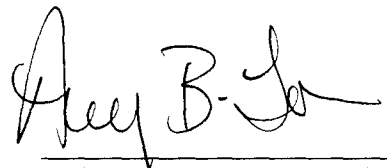
This matter is before the Court on the petition for relief under 28 U.S.C. § 2255, accompanied by petitioner's application to proceed *in forma pauperis*. The Court will grant the application to proceed *in forma pauperis* and will dismiss the case for lack of jurisdiction.

Petitioner is a resident of Hope Village, Inc., in the District of Columbia. He claims that he was wrongly convicted in the United States District Court for the District of New Jersey. The sentencing court previously denied his motion to vacate under 28 U.S.C. § 2255 and his motion for relief under Federal Rule of Civil Procedure 60(b). *See* Pet. at 2-3. Petitioner essentially has submitted a successive petition challenging his conviction.

"No circuit or district judge shall be required to entertain [a habeas petition] to inquire into [a federal offender's] detention if it appears that the legality of such detention has been [previously determined], except as provided in section 2255." 28 U.S.C. § 2244(a). Pursuant to § 2255(h), "[a] second or successive motion must be certified as provided in section 2244," which states that "[b]efore a second or successive [habeas] application . . . is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the

district court to consider the application.” 28 U.S.C. § 2244(b)(3)(A). Because petitioner was sentenced in the District of New Jersey, he must seek certification from the United States Court of Appeals for the Third Circuit to file a successive habeas petition in the sentencing court. *See In re Moore*, 196 F.3d 252, 254 (D.C. Cir. 1999) (“§ 2255 mandates” such certification); *id.* (“A federal prisoner seeking relief from his sentence must file a petition . . . in ‘the court which sentenced him.’”) (quoting 28 U.S.C. § 2255). A separate order of dismissal accompanies this Memorandum Opinion.

Date: February 22nd, 2012


United States District Judge