

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

UNITED STATES OF AMERICA)	
)	
vs.)	CAUSE NO. 3:91-CR-2 RM
)	
JAMES CLETIS SEGARS (01))	

OPINION and ORDER

James Segars has filed a “Motion to Dismiss for Lack of Jurisdiction and/or Void Excess Sentence,” wherein he requests that “any sentence in excess of the maximum sentence of 16 months” be vacated. Mr. Segars claims recent Supreme Court rulings rendered this court without jurisdiction or authority to impose a sentence in excess of sixteen months.

Although Mr. Segars captions his filing as a “motion to dismiss,” his request to have his sentence vacated, set aside, or corrected is, in fact, a motion made pursuant to 28 U.S.C. § 2255. Because Mr. Segars’ original petition filed pursuant to 28 U.S.C. § 2255 was denied, and the denial affirmed on appeal, *see Segars v. United States*, No. 01-1251, 2001 WL 747587 (7th Cir. Jul. 2, 2001), his current filing must be considered to be a second or successive petition under § 2255. 28 U.S.C. § 2244 provides that before a second or successive motion is filed with the district court, “the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.”

Accordingly, Mr. Segars’ motion to vacate his sentence [filed June 13, 2005] is DENIED as not properly before this court.

SO ORDERED.

ENTERED: June 14, 2005

/s/ Robert L. Miller, Jr.
Chief Judge
United States District Court

cc: J. Segars