

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

| | | |
|---------------------------|---|--------------------------|
| James Albert Brown, |) | C/A No. 3:06-150-CMC |
| |) | Cr. No. 3:95-443 |
| Petitioner, |) | |
| |) | |
| -versus- |) | OPINION and ORDER |
| |) | |
| United States of America, |) | |
| |) | |
| Respondent. |) | |
| |) | |

Petitioner is a *pro se* federal inmate who seeks relief pursuant to 28 U.S.C. § 2255. Petitioner seeks to take advantage of the Supreme Court's recent decision in *United States v. Booker*, 543 U.S. 220 (2005).

This petition is successive in nature. Petitioner has filed two previous motions pursuant to § 2255. *See* Brown v. USA, D.S.C. Civil Action Nos. 3:99-1109-DWS (summary judgment granted to Respondent by Order filed July 15, 1999) and 3:01-3552-DWS (dismissed by Order filed October 26, 2001).¹ Petitioner's failure to seek permission to file a second or successive petition in the appropriate court of appeals prior to the filing of the petition in the district court is fatal to the outcome of any action on the petition in this court. The Anti-Terrorism and Effective Death Penalty Act (AEDPA) of 1996, Pub. L. No. 104-132, 110 Stat. 1214 (1996), placed specific restrictions on second or successive motions under 28 U.S.C. § 2255. Prior to filing a second or successive petition under § 2255, Petitioner must obtain certification by a panel of the Fourth Circuit Court of Appeals allowing him to file a second or successive petition. As provided in 28 U.S.C. § 2244, "[b]efore a

¹Petitioner's original criminal case and previous post-judgment filings were handled by the Honorable Dennis W. Shedd. Judge Shedd has been elevated to the Fourth Circuit Court of Appeals; therefore this matter has been assigned to this court for disposition.

second or successive application permitted by this section 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). This he has not done.

IT IS THEREFORE ORDERED that this petition is dismissed as this court is without jurisdiction to consider it.

IT IS SO ORDERED.

s/ Cameron McGowan Currie

CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
January 18, 2006

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