IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF VIRGINIA ROANOKE DIVISION

GLEN W. STAPLETON,)	
)	
Petitioner,)	Case No. 7:05-CV-00541
)	Case No. 2:01-CR-10026
)	
V.)	OPINION AND ORDER
)	
UNITED STATES OF AMERICA,)	By: James P. Jones
)	Chief United States District Judge
Respondent.)	

Petitioner, Glen W. Stapleton, a federal inmate proceeding pro se, has submitted to the court this Motion to Vacate, Set Aside, or Correct Sentence, pursuant to 28 U.S.C. § 2255. Upon review of the petition and court records, I find that Stapleton's § 2255 motion must be dismissed as successive.

Records indicate that Stapleton pled guilty in January 2002 to an indictment charging him with possession of a firearm by a convicted felon. The court sentenced him on June 18, 2002, to 180 months in prison. Stapleton did not appeal. In August 2004, he filed a § 2255 motion regarding the same conviction and/or sentence, *see* Case No. 7:04-CV-00459; the court dismissed this motion as untimely filed. Based on the foregoing, I conclude that petitioner's current § 2255 motion is a second or subsequent one. This court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth

Circuit that the claims in the motion meet certain criteria.¹ See § 2255, ¶8. As Stapleton offers no indication that he has obtained certification from the court of appeals to file a second or successive § 2255 motion, I must dismiss his current § 2255 motion without prejudice.

Accordingly, it is **ORDERED** that the Motion to Vacate, Set Aside or Correct Sentence, pursuant to 28 U.S.C. § 2255, is **FILED** and **DISMISSED** without prejudice as successive, and the action is stricken from the active docket of the court.

ENTER: September 2, 2005

/s/ JAMES P. JONES
Chief United States District Judge

Petitioner is hereby advised of the procedure for obtaining certification from the United States Court of Appeals for the Fourth Circuit to have this court review a successive §2255 motion. Petitioner must submit a copy of successive § 2255 motion to the court of appeals, along with a motion requesting a three-judge panel certification that the district court may review the successive § 2255 motion. See 28 U.S.C. § 2244. A form and instructions for filing this motion are available at the following address: Office of the Clerk, United States Court of Appeals for the Fourth Circuit, 900 E. Main St., Richmond, VA 23219.