

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

DAVID DEWAYNE SNODDY,)

)
Movant/Defendant,)

v.)

)
UNITED STATES OF AMERICA,)

)
Respondent.)

2:14-cv-8016-JHH

MEMORANDUM OPINION

The court has before it the April 7, 2014 Motion (Doc. #1) to Vacate, Set Aside, or Correct Sentence Pursuant to 28 U.S.C. § 2255 filed by David Dewayne Snoddy. Pursuant to the court’s April 11, 2014 order (Doc. #2), the United States Government filed a Response, arguing that the Motion should be dismissed in its entirety as untimely and successive. (Doc. #4.) Snoddy filed a Response (Doc. # 6) to the Government’s arguments on May 13, 2014. The Motion (Doc. #1) to Vacate is now under submission and due to be denied.

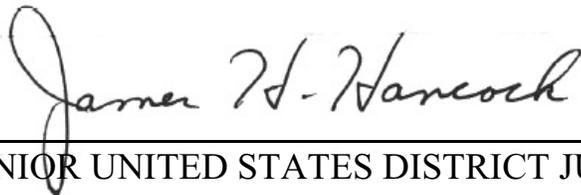
The first reason the Motion (Doc. #1) is due to be denied is because it is his second motion filed under 28 U.S.C. § 2255. His first motion was filed on October 14, 2008, and that motion was dismissed with prejudice on May 14, 2008. (See 2:08-

cv-8044-JHH-PWG.) Snoddy filed the instant motion (which is word-for-word identical to the one filed in 2008) on April 7, 2014.

The law is clear that a successive motion pursuant to § 2255 may not be reviewed by this court unless the defendant first obtains permission – a certificate of appealability – from the Eleventh Circuit Court of Appeals to file the same. 28 U.S.C. § 2255(h); 28 U.S.C. § 2244(b)(3)(A); Jackson v. Crosby, 437 F.3d 1290, 1294-95 (11th Cir. 2006). Although it seems that Snoddy has filed a motion with the Eleventh Circuit Court of Appeals seeking permission to present a second habeas, there is nothing before the court to show that it has been granted. As such, the court's hands are tied, and it cannot consider the present motion. Because Snoddy has not satisfied this requirement, the court is without jurisdiction to entertain his successive § 2255 motion, and the Motion to Vacate (Doc. # 1) is due to be denied.

A separate order will be entered dismissing this action without prejudice. The Clerk is **DIRECTED** to mail a copy of this order to the Movant and the United States Attorney for the Northern District of Alabama.

DONE this the 14th day of May, 2014.



SENIOR UNITED STATES DISTRICT JUDGE