

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

ROBERT JAMES COOK,

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Petitioner,

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v.

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**Case No.: 2:14-cv-8031-RDP
2:03-cr-545-RDP-TMP**

UNITED STATES OF AMERICA,

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Respondent.

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MEMORANDUM OPINION

The court has before it the June 11, 2014 Motion to Vacate, Set Aside, or Correct an Error and Sentence Pursuant to 28 U.S.C. § 2255(a) filed by Robert James Cook on June 11, 2014. Pursuant to the court's July 9, 2014 order (Doc. #2), the United States Government filed a Response (Doc. #3), arguing that the Motion should be dismissed in its entirety as successive. Petitioner filed a Response (Doc. #5) to the Government's arguments on September 11, 2014. The Motion to Vacate (Doc. #1) is now under submission and due to be denied.

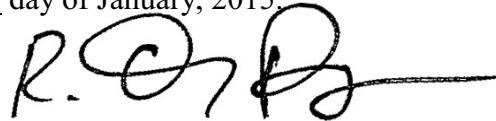
The Motion (Doc. #1) is due to be denied because it is Cook's second motion filed under 28 U.S.C. § 2255. His first motion was filed on May 7, 2007, and that motion was dismissed with prejudice on September 28, 2009. (*See generally* 2:07-cv-8015-RDP-TMP). Thereafter, Petitioner filed the instant Motion on June 11, 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 – *i.e.*, a certificate of appealability – from the Eleventh Circuit 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). Petitioner does not have the required certificate of appealability. As such, the court's hands are tied, and it cannot consider the present motion.

Because Petitioner 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 Petitioner and the United States Attorney for the Northern District of Alabama.

DONE and **ORDERED** this 23rd day of January, 2015.

A handwritten signature in black ink, appearing to read "R. David Proctor", written over a horizontal line.

R. DAVID PROCTOR
UNITED STATES DISTRICT JUDGE