

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
EL DORADO DIVISION

UNITED STATES OF AMERICA

RESPONDENT

v.

Case No. 1:98-cr-10005
Case No. 1:16-cv-1034

ROBERT ROBINSON

MOVANT

ORDER

Before the Court is the Amended Report and Recommendation¹ filed July 1, 2016 by the Honorable Barry A. Bryant, United States Magistrate Judge for the Western District of Arkansas. (ECF No. 145). Judge Bryant recommends that the Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. §2255 (ECF No. 138) filed by Robert Robinson (hereinafter referred to as “Robinson”) be denied. Petitioner has filed timely objections to the Amended Report and Recommendation. (ECF No. 147). The Court finds the matter ripe for consideration.

I. BACKGROUND

Robinson was convicted on two counts of distribution of cocaine base in violation of 21 U.S.C. § 841(a)(1) and subsequently sentenced to 360 months imprisonment, eight years of supervised release, and a \$2,000.00 fine. Although Robinson did not pursue any direct appeals of his conviction, he has filed numerous motions attacking his conviction and sentence. These prior filings include approximately seven motions for relief pursuant to § 2255. The first § 2255 motion was dismissed as time barred, and the others were dismissed because Robinson failed to

¹ Judge Bryant previously entered a Report and Recommendation recommending that the instant motion be denied as a successive §2255 motion. (ECF No. 140). The Court subsequently appointed the Federal Defender to represent Robinson and review his motion to determine if he was entitled to relief pursuant to *Johnson v. United States*, 135 S.Ct. 2551 (2015). Judge Bryant entered the Amended Report and Recommendation to take that issue into account. The Court finds that the original Report and Recommendation (ECF No. 140) is moot.

obtain authorization to file successive §2255 motions from the Eighth Circuit Court of Appeals. The Court later found that Robinson's frequent filing of unauthorized §2255 motions was frivolous and an abuse of the judicial system. As a result, the Court ordered the Clerk of Court to refuse future filings from Robinson that related to his underlying criminal conviction and sentence unless he was granted express permission from the Court of Appeals. (ECF No. 104, p. 3).

In addition to the numerous § 2255 motions, Robinson has filed a Motion for Retroactive Application of Guidelines (ECF No. 109), a Motion to Withdraw Guilty Plea (ECF No. 126), and a Motion for Reduction of Sentence Pursuant to § 3582(c)(2). (ECF No. 129). All of the aforementioned motions were denied by this Court, as well.

On May 2, 2015, Robinson filed the instant Motion to Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C. §2255.² The Court does not reach the merits of Robinson's motion and agrees with Judge Bryant's conclusion that the motion constitutes a second or successive § 2255 motion. A district court is prohibited from considering a second or successive § 2255 motion unless a prisoner first obtains certification from the appropriate court of appeals. *See* 28 U.S.C. § 2255(h). As Judge Bryant notes, Robinson has failed to obtain the required certification from the Eighth Circuit. Because Robinson failed to obtain this authorization, the Court must dismiss the motion for lack of jurisdiction.

The Court also finds that Robinson has failed to offer any meaningful objections to the Amended Report and Recommendation. Instead, Robinson appears to make a request for a hearing regarding his claim for Social Security benefits. Such claims are not cognizable under § 2255. *See* 28 U.S.C. § 2255(a).

² Robinson filed the instant motion in the United States District Court for the Western District of Missouri. The motion was subsequently transferred to this Court pursuant to 28 U.S.C. § 2255(a).

For the reasons stated above, based on its own *de novo* review, the Court adopts Judge Bryant's Amended Report and Recommendations *in toto*. Accordingly, the Motion to Vacate pursuant to § 2255 (ECF No. 138) is **DISMISSED**. Consistent with the Court's prior order (ECF No. 104), the Clerk of Court is hereby directed not to accept any future pleadings from Robinson that relate to his underlying criminal conviction and sentence unless he is granted express authority to file a second or successive motion in this matter from the United States Court of Appeals for the Eighth Circuit.

IT IS SO ORDERED, this 7th day of October, 2016.

/s/ Harry F. Barnes
Harry F. Barnes
United States District Judge