

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

ANGELA ESTERS WRIGHT,

Petitioner,

v.

CASE NO. 6:06-cv-1187-Orl-19DAB
(6:00-cr-147-Orl-19DAB)

UNITED STATES OF AMERICA,

Respondent.

ORDER

Petitioner has filed a Motion To Alter or Amend Pursuant to Rule 60(b)(5) (Doc. No. 1, filed August 8, 2006). Petitioner alleges that she should be resentenced based on the decision of the United States Supreme Court in *United States v. Booker*, 125 S. Ct. 738 (2005).

Petitioner previously filed a section 2255 motion in this Court, which was denied with prejudice. *See* Case Number 6:03-cv-1367-Orl-19DAB. The claim raised in the present motion is merely an attempt to assert a claim of error with regard to her federal sentence. Under the circumstances, it appears that the present Rule 60(b) motion should be treated as a second or successive section 2255 motion, and Petitioner would then be required to move in the Eleventh Circuit Court of Appeals for an order authorizing the district court to consider the motion. *See* 28 U.S.C. §§ 2244 and 2255. Consequently, it appears this motion should be dismissed without prejudice to allow Petitioner the opportunity to seek

authorization from the Eleventh Circuit Court of Appeals.

In an abundance of caution, the Court will allow Petitioner an opportunity to explain why this case should not be treated as a motion under section 2255. In the event that she fails to do so, this case will be dismissed without prejudice to the right of Petitioner to move in the appellate court to file a second or successive section 2255 motion.

Accordingly, it is hereby **ORDERED** that Petitioner shall show cause, within twenty (20) days from the date of this Order, why this case should not be treated as a petition under section 2255 and dismissed without prejudice. The failure to comply with this Order will result in the denial and dismissal of her motion without further notice.

DONE AND ORDERED in Chambers at Orlando, Florida, this 14th day of August, 2006.

A handwritten signature in black ink, reading "Patricia C. Fawsett", written over a horizontal line.

PATRICIA C. FAWSETT, CHIEF JUDGE
UNITED STATES DISTRICT COURT

Copies to:
pslc 8/14
Angela Esters Wright