

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

FILED
U.S. DISTRICT COURT
SAVANNAH DIV.
2019 JUL 11 AM 11:11

STANLEY LEE HAYWARD,)
)
Petitioner,)
)
v.)
)
UNITED STATES OF AMERICA,)
)
Respondent.)
_____)

CLERK [Signature]
SO. DIST. OF GA.

CASE NOS. CV416-111
CR408-203

O R D E R


Petitioner Stanley Lee Hayward has filed a Motion for Relief from Judgment pursuant to Federal Rule of Civil Procedure 60(b) based on the United States Court of Appeals for the Eleventh Circuit's recent decision in United States v. Moss, 920 F.3d 752, 758 (11th Cir. 2019). (Doc. 25 at 5.)¹ The Magistrate Judge has issued a Report and Recommendation identifying the motion as a successive 28 U.S.C. § 2255 petition. (Doc. 27 at 2.) Accordingly, the Magistrate Judge recommends that the motion be dismissed as this Court lacks the jurisdiction to entertain a successive § 2255 petition. (Id. at 3.)

This Court agrees with the Magistrate Judge's report and recommendation. This Court may only entertain a second or successive habeas corpus petition after a petitioner

¹ The Court is citing to the civil docket in CV416-111 unless otherwise noted.

receives certification from the Eleventh Circuit Court of Appeals allowing the petition. 28 U.S.C. § 2244(b)(3)(A). Under Eleventh Circuit Rule 22-3(a), Petitioner must file an "Application for Leave to File a Second or Successive Habeas Corpus Petition" with the Eleventh Circuit, using the form provided by the Eleventh Circuit Clerk of Court, before filing a second or successive petition in this Court. To the extent that Petitioner's motion is construed as a 28 U.S.C. § 2255 petition, this Court is precluded from ruling on Petitioner's motion until he receives the required certification from the Eleventh Circuit. Accordingly, Petitioner's Motion for Relief from Judgment pursuant to Federal Rule of Civil Procedure 60(b) (Doc. 25) is **DENIED**. In addition, Petitioner is not entitled to a Certificate of Appealability, rendering moot any request for in forma pauperis status on appeal.

SO ORDERED this 11th day of July 2019.



WILLIAM T. MOORE, JR.
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA