UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

MARLON EUGENE McREYNOLDS,

Petitioner,

vs. No. 1:14-cv-822-LJM-DKL
IP 99-59-CR-03-M/F

UNITED STATES OF AMERICA,

Respondent.

Entry Dismissing Motion for Relief Pursuant to 28 U.S.C. § 2255 and Denying Certificate of Appealability

I. The 2255 Motion

A federal inmate seeking to set aside his conviction generally must do so under 28 U.S.C. § 2255. *See Morales v. Bezy,* 499 F.3d 668, 670 (7th Cir. 2007). Marlon McReynolds has traveled that path with respect to his conviction for drug offenses in No. IP 99-59-CR-03-M/F. This occurred in a proceeding assigned to the civil docket as No. 1:03-cv-1360-LJM-VSS, which was dismissed with prejudice on April 21, 2004. This disposition was affirmed on appeal in *McReynolds v. United States,* 397 F.3d 479, 481 (7th Cir. 2005).

A second or successive petition may only be considered by the sentencing court if the petitioner seeks an order from the appropriate court of appeals authorizing the district court to consider the application. 28 U.S.C. § 2244(3); see also 28 U.S.C. § 2255(h) ("A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals . . . ."). McReynolds has not claimed, and there is no indication, that he has obtained leave from the Court of Appeals to file a second or successive such petition. When there has already been a decision on the merits in a federal habeas action, to obtain another round of federal collateral review a petitioner requires permission from the Court of Appeals under 28 U.S.C. 2244(b). *See Potts v. United States,* 210 F.3d 770 (7th Cir. 2000).

Judgment consistent with this Entry shall now issue.

II. Certificate of Appealability

Pursuant to Federal Rule of Appellate Procedure 22(b), Rule 11(a) of the Rules Governing 2254 proceedings, and 28 U.S.C. 2253(c), the court finds that McReynolds has failed to show that reasonable jurists would find it debatable whether [this court] was correct in its procedural ruling. *Slack v. McDaniel,* 529 U.S. 473, 484 (2000). The court therefore denies a certificate of appealability.

IT IS SO ORDERED.

Date: 06/03/2014

LARRY J. McKINNEY, JUDGE
United States District Court
Southern District of Indiana

Distribution:

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