

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION**

NICHOLAS CEJA,)	
)	
Petitioner,)	
)	
v.)	Case No. 2:17-cv-00303-JMS-MJD
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

**Entry Dismissing Motion to Vacate, Set Aside, or Correct Sentence
and Denying a Certificate of Appealability**

Petitioner Nicholas Ceja seeks relief from his convictions in No. 2:11-cr-0037-JMS-CMM-2. He does so after having previously challenged his conviction pursuant to 28 U.S.C. § 2255 and after the challenge was adjudicated on the merits in No. 2:15-cv-0229-JMS-DKL.

Ceja’s current § 2255 motion must be summarily dismissed for lack of jurisdiction. This disposition is entered pursuant to Rule 4 of the *Rules Governing Section 2255 Cases in the United States District Courts* and is based on the fact that this is a second or successive action for such relief, though there is no indication that the Court of Appeals has authorized the filing of a second or successive motion. Such permission is required by 28 U.S.C. § 2244(b)(3)(A). Section 2244 has been described as “self-executing.” *Nunez v. United States*, 96 F.3d 990, 991 (7th Cir. 1996). This means that a district court lacks all jurisdiction over such a matter until permission to file is granted by the Court of Appeals. *Id.* An action over which the district court lacks jurisdiction must be dismissed. *Steel Co. v. Citizens for a Better Environment*, 118 S. Ct. 1003 (1998). That is precisely the disposition which is compelled in this case. This disposition is compelled entirely apart from whether the defendant has or lacks a strong case for filing a successive § 2255 motion. That is a

point on which the court expresses no opinion at this point and into which it has no authority to inquire.

Because the petitioner has not shown that the Court of Appeals has authorized his filing of a successive § 2255 motion, the present motion must be summarily dismissed for lack of jurisdiction. *See Melton*, 359 F.3d 855 at 857. Judgment consistent with this Entry shall now issue and a copy of this Entry shall be docketed in No. **2:11-cr-0037-JMS-CMM-2**.

Pursuant to Federal Rule of Appellate Procedure 22(b), Rule 11(a) of the Rules Governing § 2255 proceedings, and 28 U.S.C. § 2253(c), the Court finds that Ceja 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: 11/6/2017


Hon. Jane Magnus-Stinson, Chief Judge
United States District Court
Southern District of Indiana

Distribution:

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