

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
CEDAR RAPIDS DIVISION**

DONNALE C. CLAY,

Movant,

vs.

UNITED STATES OF AMERICA.

No. C16-0123-LRR  
No. CR09-0005-LRR

ORDER

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This matter appears before the court on Donnale C. Clay's motion to vacate, set aside or correct sentence (civil docket no. 1). Donnale C. Clay ("the movant") filed such motion on June 15, 2016. The movant previously sought relief under 28 U.S.C. § 2255, and, before filing the instant action, the movant did not move the Eighth Circuit Court of Appeals for authorization allowing the court to file and consider a second 28 U.S.C. § 2255 motion. 28 U.S.C. § 2244(b)(3)(A) provides:

Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.

"This rule is absolute." *Boykin v. United States*, 2000 U.S. App. LEXIS 27076 at \*1-3, 2000 WL 1610732 at \*1 (8th Cir. 2000) (per curiam unpublished opinion) (vacating judgment regarding 28 U.S.C. § 2255 motion and remanding case to district court to dismiss for lack of jurisdiction). *Cf. Felker v. Turpin*, 518 U.S. 651, 662, 116 S. Ct. 2333, 135 L. Ed. 2d 827 (1996) (discussing 28 U.S.C. § 2244(b)); *Vancleave v. Norris*,

150 F.3d 926, 927-28 (8th Cir. 1998) (same). Accordingly, the movant's instant 28 U.S.C. § 2255 motion (civil docket no. 1) shall be dismissed.<sup>1</sup>

**IT IS THEREFORE ORDERED:**

The movant's 28 U.S.C. § 2255 motion (civil docket no. 1) is **DISMISSED**.

**DATED** this 12th day of August, 2016.

A handwritten signature in black ink, appearing to read "A. N. N.", is centered on the page.

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<sup>1</sup> The court notes that the movant is serving a term of imprisonment pursuant to a revocation judgment.