

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

TIMOTHY MARTIN KENDRICK,

Movant,

vs.

UNITED STATES OF AMERICA.

No. C14-2008-LRR
No. CR02-2039-LRR

ORDER

This matter appears before the court on Timothy Martin Kendrick's motion to proceed in forma pauperis (civil docket no. 1) and motion to vacate, set aside or correct sentence (civil docket no. 2). Timothy Martin Kendrick ("the movant") filed both motions on January 27, 2014. 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.

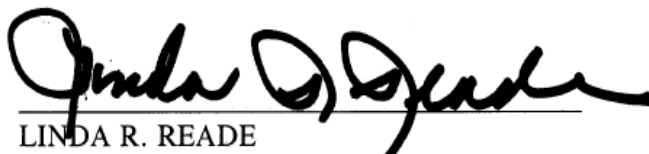
"This rule is absolute." *Boykin v. United States*, 2000 U.S. App. LEXIS 27076 at *1-3, 2000 WL 1610732 at *1 (8th Cir. 2000) (per curiam unpublished opinion) (vacating judgment regarding 28 U.S.C. § 2255 motion and remanding case to district court to dismiss for lack of jurisdiction). *Cf. Felker v. 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 motion to proceed in forma pauperis (civil docket no. 1) shall be denied as moot and the movant's instant 28 U.S.C. § 2255 motion (civil docket no. 2) shall be dismissed. Further, because it appears from the record that the movant mistakenly sent his motions and exhibits to this court rather than the Eighth Circuit Court of Appeals, the clerk's office shall be directed to forward a copy of this order and all of the movant's documents to the Eighth Circuit Court of Appeals.

IT IS THEREFORE ORDERED:

- (1) The movant's motion to proceed in forma pauperis (civil docket no. 1) is denied as moot.
- (2) The movant's 28 U.S.C. § 2255 motion (civil docket no. 2) is DISMISSED.
- (3) The clerk's office is directed to forward a copy of this order and all of the movant's documents to the Eighth Circuit Court of Appeals.

DATED this 25th day of February, 2014.


LINDA R. READE
CHIEF JUDGE, U.S. DISTRICT COURT
NORTHERN DISTRICT OF IOWA