

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

CHRISTOPHER ANDREW WELKER,)	
)	
Movant,)	
)	
v.)	No. 1:13CV129 RWS
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter is before me on movant’s second motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255. The motion will be summarily denied. See 28 U.S.C. § 2255, Rule 4.

Movant pled guilty to being a felon in possession of a firearm. United States v. Welker, 1:04CR90 RWS (E.D. Mo.). On October 7, 2004, I sentenced movant to 180 months’ imprisonment. The Eighth Circuit Court of Appeals affirmed on May 16, 2005.

On April 5, 2006, movant filed his first § 2255 motion. Welker v. United States, 1:06CV48 RWS (E.D. Mo.). I denied the motion on the merits on January 9, 2009. I did not issue a certificate of appealability, and the Eighth Circuit Court of Appeals denied movant’s application for a certificate of appealability on February 26, 2009.

In the instant motion, movant argues that he is entitled to relief based on new decisions from the Supreme Court of the United States.

Under 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 to contain--

(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or

(2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.

Absent certification from the United States Court of Appeals, this Court lacks authority under § 2255 to grant movant's requested relief. As a result, the motion will be dismissed.

Accordingly,

IT IS HEREBY ORDERED that movant's motion to vacate under 28 U.S.C. § 2255 is **DISMISSED**.

IT IS FURTHER ORDERED that I will not issue a certificate of appealability.

A separate Order of Dismissal will be filed contemporaneously.

Dated this 18th day of September, 2013.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE