UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

TONYA JOHNSON HYLES,	)	
	)	
Movant,	)	
	)	
v.	)	No. 1:16CV109 HEA
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent,	)	

OPINION, MEMORANDUM AND ORDER

This matter is before the Court on movant's motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255. The motion is denied without prejudice.

Movant argues that her sentence is unconstitutional after Johnson v. United States, 135 S.Ct. 2551 (2015). The motion is successive. Hyles v. United States, No. 1:10-CV-15 HEA. She has filed an application for permission to file a successive motion to vacate in the Court of Appeals for the Eighth Circuit, which remains pending. Hyles v. United States, No. 16-2930 (8th Cir.). Movant seeks to hold the instant case in abeyance pending the decision of the Court of Appeals.

The requirement that prisoners obtain authorization from the circuit court before filing a second or successive petition in the district court is jurisdictional. Burton v. Stewart, 127 S. Ct. 793, 796 (2007).

"Federal courts are courts of limited jurisdiction. The requirement that jurisdiction be established as a threshold matter springs from the nature and limits of the judicial power of the United States and is inflexible and without exception." *Kessler v. Nat'l Enterprises, Inc.*, 347 F.3d 1076, 1081 (8th Cir. 2003) (quotation marks omitted; emphasis added).

Because movant has not received permission from the Court of Appeals to file this action, this Court lacks jurisdiction to entertain the motion or to hold this matter in abeyance. Therefore, the motion is denied, and this action is dismissed without prejudice. See Fed. R. Civ. P. 12(h)(3) (dismissal is required, not discretionary).

Finally, movant has not met the burden for issuing a certificate of appealability under 28 U.S.C. § 2253(c).

Accordingly,

IT IS HEREBY ORDERED that movant's motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255 is **DENIED**, and this action is **DISMISSED** without prejudice.

IT IS FURTHER ORDERED that all pending motions are **DENIED** as moot.

An Order of Dismissal will be filed separately.

Dated this 15th day of July, 2016.

HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE