UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

DENISE BOYCE,   )
)
         Movant,   )
)
v.   )   No. 4:13-CV-1435-RWS
)
UNITED STATES OF AMERICA,   )
)
         Respondent.   )

MEMORANDUM AND ORDER

This matter is before the Court on Denise Boyce's motion to vacate, set aside, or correct her sentence under 28 U.S.C. § 2255.

Movant challenges her November 8, 2007 judgment and sentence for conspiracy to distribute and possess with intent to distribute heroin in *United States v. Boyce*, No. 4:07-CR-240-RWS (E.D. Mo.). Movant asserts that her sentence enhancement "was not determined by any jury" and "should not have been applied in the Pre-Sentence Report."

The Court's records show that movant has already filed, and the Court has already dismissed, a previous § 2255 motion attacking this conviction. *See Boyce v. United States*, No. 4:12-CV-1694-RWS (E.D. Mo).
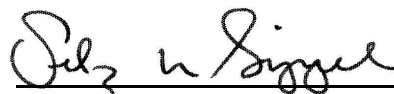
As amended by the Antiterrorism and Effective Death Penalty Act of 1996

("AEDPA"), 28 U.S.C. § 2255 now provides that a "second or successive motion

must be certified . . . by a panel of the appropriate court of appeals" to contain

certain information. Title 28 U.S.C. § 2244(b)(3)(A) provides that "[b]efore 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."

Because movant did not obtain permission from the Eighth Circuit Court of

Appeals to maintain the instant § 2255 motion in this Court, the Court lacks

authority to grant movant the relief she seeks. As such, the instant action will be

summarily dismissed, without prejudice.

Therefore,

IT IS HEREBY ORDERED that the instant motion to vacate is **DENIED**,

without prejudice, because movant did not obtain permission from the Eighth

Circuit Court of Appeals to bring the motion in this Court. *See* 28 U.S.C. § 2255.

A separate Order of Dismissal shall accompany this Memorandum and Order.

Dated this 6th day of August, 2013.

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UNITED STATES DISTRICT JUDGE