

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

JAMES MCCA W,)	
)	
Movant,)	
)	
v.)	No. 4:14-CV-1035-CEJ
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

MEMORANDUM

This matter is before the Court on movant's motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. ' 2255. The motion is successive within the meaning of 28 U.S.C. ' ' 2244 and 2255 and has not been certified by the United States Court of Appeals for the Eighth Circuit as required by the AEDPA. As a result, the motion will be denied.


Following a jury trial, movant was convicted of transporting stolen goods and vehicles in interstate commerce, in violation of 18 U.S.C. §§ 2312, 2314 and 2; and transferring without authorization Social Security numbers of others with intent to commit and aid and abet unlawful activity, in violation of 18 U.S.C. § 1028(a)(7). Movant was sentenced on April 3, 2003, to a 262-month term of imprisonment, to be followed by three years of supervised release. The judgment was affirmed on appeal. *United States v. McCaw*, No. 03-1972 (8th Cir. 2004).

Movant filed his first motion to vacate pursuant to 28 U.S.C. ' 2255 on January 20, 2005. This Court denied the motion on the merits. *McCaw v. U.S.*, No. 4:05-CV-114-CEJ (E.D. Mo.). The United States Court of Appeals for the Eighth Circuit denied movant's application for a certificate of appealability on June 23, 2011.

In the instant motion, movant claims that he was convicted and sentenced in violation of the Ex Post Facto Clause. Movant's motion is successive, and absent certification from the United States Court of Appeals, this Court lacks authority under ' 2255 to grant him relief. *See* 28 U.S.C. ' ' 2244 and 2255. As such, this action will be dismissed without prejudice.

A separate Order of Dismissal will accompany this Memorandum.

Dated this 24th day of June, 2014.



CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE