

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

| | | |
|---------------------------|---|----------------------|
| HAROLD FORD, |) | |
| |) | |
| Movant, |) | |
| |) | |
| v. |) | No. 4:16-CV-1029 RWS |
| |) | |
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Respondent, |) | |

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.

Movant argues that his sentence is unconstitutional after *Johnson v. United States*, 135 S.Ct. 2551 (2015). The motion is successive. *Ford v. United States*, 4:14-CV-197 RWS. He has filed an application for permission to file a successive motion to vacate in the Court of Appeals for the Eighth Circuit, which was denied. *Ford v. United States*, No. 16-2638 (8th Cir.).

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).

Because movant did not receive permission from the Court of Appeals to file this action, this Court lacks jurisdiction to entertain the motion. 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**.

An Order of Dismissal will be filed separately.

Dated this 28th day of October, 2016.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE