

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

|                           |   |                          |
|---------------------------|---|--------------------------|
| UNITED STATES OF AMERICA, | ) |                          |
|                           | ) |                          |
| Plaintiff,                | ) |                          |
|                           | ) |                          |
| v.                        | ) | Case No(s). CIV-16-686-D |
|                           | ) | CR-98-135-D              |
| PHILLIP D. BREDY,         | ) |                          |
|                           | ) |                          |
| Defendant.                | ) |                          |

**ORDER**

Before the Court is Defendant’s Second Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 [Doc. No. 134]. For the reasons stated below, Defendant’s motion is dismissed for failure to obtain authorization to file a second § 2255 motion.

On August 5, 1998, Defendant was indicted on four counts of armed robbery and firearm violations. He was convicted on all counts and sentenced to a term of life imprisonment. Defendant’s sentence was affirmed by the Tenth Circuit. *See United States v. Bredy*, 209 F.3d 1193 (10th Cir. 2000). On August 27, 2001, Defendant filed his first § 2255 Motion to Vacate, Set Aside or Correct Sentence [Doc. No. 91], which was denied [Doc. No. 114]. On June 20, 2016, Defendant filed a second § 2255 motion, seeking relief pursuant to the Supreme Court’s recent decision in *Johnson v. United States*, \_\_\_ U.S. \_\_\_, 135 S.Ct. 2551, 192 L.Ed.2d 569

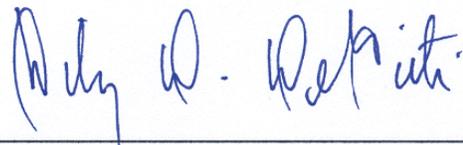
(2015).<sup>1</sup> However, under 28 U.S.C. § 2255(h)(2), Defendant was required to obtain authorization to file a second § 2255 motion. *See id.* (“A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals to contain ... a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.”).

A review of the docket sheet shows the Tenth Circuit docketed Defendant’s motion to file a second § 2255 motion [Doc. No. 137]. However, to date, the circuit has not issued a ruling. In the absence of such authorization, the Court lacks jurisdiction to address the merits of a second § 2255 motion. *In re Cline*, 531 F.3d 1249, 1251 (10th Cir. 2008). Accordingly, Defendant’s motion is denied.

### CONCLUSION

Defendant’s Second Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 [Doc. No. 134] is **DENIED** as set forth herein.

**IT IS SO ORDERED** this **5th** day of April, 2017.



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TIMOTHY D. DEGIUSTI  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> In *Welch v. United States*, \_\_ U.S. \_\_, 136 S.Ct. 1257, 1268, 194 L.Ed.2d 387 (2016), the Supreme Court held *Johnson* announced a substantive rule that has retroactive effect in cases on collateral review.