

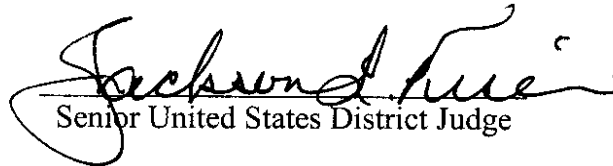


a second or successive § 2255 motion only upon specific certification from the Fourth Circuit that the claims in the motion meet certain criteria. See 28 U.S.C. § 2255, ¶8. Since the petitioner has not submitted any evidence of having obtained certification from the Fourth Circuit to file a successive § 2255 motion, the petitioner's current motion must be dismissed.

In any event, the petitioner's § 2255 motion fails to state a claim upon which relief may be granted. The United States Court of Appeals for the Fourth Circuit recently held that the rule announced in Booker is "not available for post-conviction relief for federal prisoners ... whose convictions became final before Booker was decided." United States v. Morris, 429 F.3d 65, 72 (4<sup>th</sup> Cir. 2005). In this case, the petitioner's convictions became final on or about November 3, 2003, the date on which his time to appeal expired. See Clay v. United States, 537 U.S. 522, 532 (2003); Fed. R. App. P. 4(b) and 26(a). Since the petitioner's conviction became final before Booker was decided, the rule announced in Booker offers him no ground for relief under § 2255.\*

For the reasons stated, the petitioner's motion must be dismissed. The Clerk is directed to send certified copies of this memorandum opinion and the accompanying order to the petitioner and counsel of record for the respondent, if known.

ENTER: This 2<sup>nd</sup> day of ~~January~~<sup>Feb.</sup>, 2006.

  
Senior United States District Judge

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\* Additionally, the court notes that the petitioner's motion is untimely. Section 2255 has a one-year period of limitation. Generally, this period begins to run from the date on which the judgment of conviction becomes final. See 29 U.S.C. § 2255, ¶ 6. Since the petitioner's conviction became final on November 3, 2003, the petitioner had until November 3, 2004 to file a § 2255 motion. The petitioner did not meet this deadline, and he does not allege facts demonstrating that he meets any of the conditions allowing for a later commencement of the one-year period of limitation. See 28 U.S.C. § 2255 ¶ 6.