

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT ROANOKE, VA
FILED
MAR 13 2006
JOHN F. CONCORAN, CLERK
BY: *[Signature]*
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DELMER VICTOR LEONARD,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

)
)
) Case No. 7:06CV00134
)
)

OPINION

) By: James C. Turk
) Senior United States District Judge
)

The petitioner, a federal inmate proceeding pro se, has filed a Motion to Vacate, Set Aside, or Correct Sentence, pursuant to 28 U.S.C.A. § 2255 (West Supp. 2005). Upon review of the motion and court records, the court finds that the § 2255 motion must be dismissed as successive.

Petitioner pled guilty in 1996 to various weapons offenses and was sentenced to serve 216 months imprisonment. The United States Court of Appeals for the Fourth Circuit affirmed his convictions and sentence on appeal. Petitioner then filed several motion to vacate, set aside or correct sentence, pursuant to 28 U.S.C. §2255. See Case Nos. 7:99-cv-00743, 7:01-cv-00715, 7:02-cv-00634, and 7:03-cv-00214. The court denied relief the first action and dismissed the others without prejudice as successive. As his current § 2255 motion challenges the same convictions and sentences, it too is successive and must be dismissed.

This court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the motion meet certain criteria. See § 2255 para. 8. As the petitioner offers no indication that he has obtained certification from the court of appeals to file a second or successive § 2255 motion, the

court must dismiss his current action without prejudice.¹ A separate Final Order will be entered herewith.

ENTER: March 13th, 2006.


James C. Turk

Senior United States District Judge

¹ To obtain certification from the Fourth Circuit, the petitioner must submit a copy of the § 2255 motion to the court of appeals, along with a motion requesting certification for the district court to review a successive § 2255 motion. *See* 28 U.S.C.A § 2244 (West Supp. 2005). Petitioner may write to request a form and instructions for filing this motion at the following address: Office of the Clerk, United States Court of Appeals for the Fourth Circuit, 900 E. Main St., Richmond, VA 23219.