

CLERK'S OFFICE U.S. DIST. COURT
AT ROANOKE, VA
FILED

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

OCT 30 2006

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COLEMAN LEAKE JOHNSON, JR.,)
Petitioner,)
v.)
UNITED STATES OF AMERICA,)
Respondent.)

Civil Action No. 7:06CV00624

MEMORANDUM OPINION

By: Hon. Norman K. Moon
United States District Judge

The petitioner, Coleman Leake Johnson, Jr., a federal inmate proceeding pro se, has filed a motion that the petitioner styles as a motion for relief under Rule 60(b) of the Federal Rules of Civil Procedure. Upon review, the court concludes that the motion should be construed as a motion to vacate, set aside or correct sentence under 28 U.S.C. § 2255. Because Johnson has already filed a § 2255 motion challenging the same conviction and sentence, the motion must be dismissed as successive.


On May 23, 2001, a jury in the Western District of Virginia found Johnson guilty of bombing a building used in or affecting interstate commerce, resulting in death, in violation of 18 U.S.C. § 844(i). Johnson was ultimately sentenced to life imprisonment. On July 12, 2002, the United States Court of Appeals for the Fourth Circuit affirmed his conviction and sentence. Johnson then filed a petition for writ of certiorari in the United States Supreme Court, which was denied on November 12, 2002. On November 9, 2003, Johnson challenged the validity of his conviction and sentence in a § 2255 motion. The court denied the motion on December 30, 2004. Johnson's subsequent appeal was dismissed by the Fourth Circuit on September 1, 2005.

In his present motion under Rule 60(b), Coleman argues that his conviction is invalid because the court lacked jurisdiction over the property on which the crime occurred. Because Coleman's motion directly attacks the validity of his conviction, it must be construed as a successive § 2255

motion. See United States v. Winestock, 340 F.3d 200, 207 (4th Cir. 2003). 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 28 U.S.C. § 2255, para. 8. Since Coleman has not submitted any evidence of having obtained such certification from the Fourth Circuit, his present 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.

ENTER: This 30th day of October, 2006.



United States District Judge