

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

CLERK'S OFFICE U.S. DIST. COURT  
AT LYNCHBURG, VA  
FILED  
JUN 05 2007  
JOHN F. CORCORAN, CLERK  
BY: *J. Mahee*  
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COLEMAN LEAKE JOHNSON, )  
Petitioner, ) Civil Action No. 7:07-cv-00281  
v. ) MEMORANDUM OPINION  
UNITED STATES OF AMERICA, )  
Respondent. ) By: Hon. Norman K. Moon  
United States District Judge

Petitioner, Coleman Leake Johnson, a federal inmate proceeding pro se, has filed a motion to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255. Court records indicate that Johnson has previously filed a § 2255 motion. Therefore, the court finds that this action must be dismissed without prejudice as a successive .

I.

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 filed a § 2255 motion in this court, challenging the validity of his conviction and sentence.<sup>1</sup> The court denied the motion on December 30, 2004, finding no merit to any of his claims. Johnson's subsequent appeal of that decision was dismissed by the Fourth Circuit on September 1, 2005. On October 16, 2006, Johnson filed a motion for relief under Rule

<sup>1</sup> See Civil Action No. 7:03cv00781.

60(b) of the Federal Rules of Civil Procedure, which the court construed and dismissed as a successive § 2255 motion on October 30, 2007.<sup>2</sup> Johnson appealed that decision on January 16, 2007 and the appeal is currently pending in the Fourth Circuit.

## II.

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 ¶ 8. As Johnson has not submitted any evidence of having obtained certification from the Court of Appeals to file a second or successive §2255 motion, the court must dismiss his petition as successive.<sup>3</sup>

## II.

For the reasons stated, the court denies Johnson's motion and dismisses it as a successive § 2255 petition.

The Clerk is directed to send a certified copy of this Memorandum Opinion and the accompanying Order to the petitioner.

ENTER: This 5<sup>th</sup> day of June, 2007.

  
United States District Judge

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<sup>2</sup> See Civil Action No. 7:06cv00624.

<sup>3</sup> Petitioner is hereby advised of the procedure for obtaining certification from the United States Court of Appeals for the Fourth Circuit to have this court review a successive § 2255 motion. Petitioner must submit a copy of the successive § 2255 motion to the Court of Appeals, along with a motion requesting a three-judge panel certification that the district court may review the successive § 2255 motion. See 28 U.S.C. § 2244 (as amended, 1996). A Fourth Circuit form and instructions for filing this motion will be included with this notice or are available from the Fourth Circuit at the following address: Office of the Clerk, United States Court of Appeals for the Fourth Circuit, 900 E. Main St., Richmond, VA 23219.