

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**Case No. 07-C-213  
(92-CR-178)**

**EARNEST PARKER-BEY,**

**Movant.**

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**DECISION AND ORDER**

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The Court is in receipt of a letter from Earnest Parker-Bey (“Parker-Bey”) questioning the calculation of his sentence under applicable guidelines. Parker-Bey was sentenced almost 14 years ago in March of 1993. A quick search on the Court’s docketing system reveals that Parker-Bey has been one of this district’s most frequent filers. To wit, the Court discovered at least four motions attacking his sentence under 28 U.S.C. § 2255, all of which were denied.

Parker-Bey’s missive is not, nor does it purport to be, a motion for reduction of sentence based upon a change in sentencing guidelines. *See* 18 U.S.C. § 3582. Accordingly, Parker-Bey’s request must be construed as a successive § 2255 motion, which the Court lacks jurisdiction to consider. “Any motion filed in the district court that imposed the sentence, and substantively within the scope of § 2255 ¶ 1, is a motion under § 2255, no matter what title the prisoner plasters on the cover.” *Jackson v. United States*, 463 F.3d 635, 639 (7th Cir. 2006).

Moreover, Parker-Bey is pursuing an appeal with respect to the Court’s previous denial of his motion for reduction of sentence. (Appeal No. 06-2991). That matter remains pending on appeal, which calls into question the Court’s jurisdiction to entertain any further attacks on

Parker-Bey's sentence or conviction. *See Kusay v. United States*, 62 F.3d 192, 193 (7th Cir. 1995) (filing of a notice of appeal "is an event of jurisdictional significance – it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal").

**NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY ORDERED THAT:**

Parker-Bey's motion to reduce his sentence [Docket No. 276] is construed as a motion under 28 U.S.C. § 2255, and is **DISMISSED** for lack of jurisdiction.

Dated at Milwaukee, Wisconsin, this 6th day of March, 2007.

**SO ORDERED,**

s/Rudolph T. Randa  
**HON. RUDOLPH T. RANDA**  
**Chief Judge**