

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

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

EARNEST PARKER-BEY,

Movant.

DECISION AND ORDER

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