

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

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**UNITED STATES OF AMERICA,**

Plaintiff,

-vs-

**NELSON RIVAS,**

Movant.

Case Nos. **14-C-732  
91-CR-217**

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**DECISION AND ORDER**

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The Court has been down this road before with Nelson Rivas, who once again filed a motion that must be construed as coming under 28 U.S.C. § 2255 and dismissed as second or successive. Rivas' citation to *Alleyne v. United States*, 133 S. Ct. 2151 (2013) doesn't change the analysis. *United States v. Miller*, 542 Fed. App'x 526 (7th Cir. Nov. 15, 2013) (denying application to file a second or successive § 2255 motion because the Supreme Court has not made *Alleyne* retroactive to cases on collateral review).

The Clerk of Court is **DIRECTED** to open a separate civil § 2255 action with this motion [ECF No. 148 in Case No. 91-CR-217], which is **DISMISSED** for lack of jurisdiction. The Court will not issue a certificate of appealability with respect to that action. Rule 11(a), Rules Governing Section 2255 Proceedings.

Dated at Milwaukee, Wisconsin, this 25th day of June, 2014.

**BY THE COURT:**

  
**HON. RUDOLPH T. RANDA**  
U.S. District Judge