

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

ERNEST E. BROOKS, III,

Defendant.

ORDER

02-cr-0027-bbc

05-cv-0469-bbc

18-cv-7-bbc

On August 1, 2005, defendant Ernest Brooks, III, filed a motion for post conviction relief under 28 U.S.C. § 2255 (05-cv-469-bbc), contesting his conviction and sentence on the ground the government violated his Sixth Amendment right to a fair and impartial trial and that his court-appointed counsel was constitutionally ineffective. On August 9, 2005, I denied defendant's motion as untimely.

Now, almost twelve years later, defendant has filed a motion under 28 U.S.C. § 2255 (18-cv-7-bbc) contending that he is innocent of the charges against him. The law does not permit defendant to file another motion for post conviction relief, unless he can obtain certification from the court of appeals that his new motion contains newly discovered evidence or that it rests on "a new rule of constitutional law, made retroactive to cases on

collateral review by the Supreme Court." Defendant has not made that showing, which means that this court has no authority to consider the claims raised in his motion.

ORDER

IT IS ORDERED that defendant Ernest Brooks's motion 28 U.S.C. § 2255 is DISMISSED because it is a successive collateral attack and this court lacks authority to entertain it.

Entered this 31st day of January, 2018.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge