

UNITED STATES OF AMERICA,

v.

JAMES ANTONIO JONES,

Defendant.

Criminal Action No. 89-162-04(RCL)

FILED

OCT 27 2009

NANCY MAYER WHITTINGTON

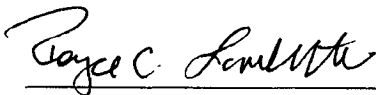
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Mr. Jones has previously filed two § 2255 motions, both of which were denied, decisions that were subsequently affirmed by the court of appeals. Mr. Jones's memorandum raises claims that are traditionally the subject of a § 2255 motion, such as ineffective assistance of counsel and allegations of prosecutorial misconduct. Accordingly, the Court thinks it appropriate to characterize as a § 2255 petition. As such,

Mr. Jones's petition is a successive petition and prior to consideration by this Court, his motion must be certified by a panel of the Court of Appeals. 28 U.S.C. §§ 2244(b)(3)(A), 2255(h). As no such certification has been obtained, this Court lacks jurisdiction to consider Mr. Jones's motion. *Burton v. Stewart*, 549 U.S. 147, 157 (2007); *Moore v. Dep't of Justice*, No. 98-5085, 1998 WL 545421, at *1 (D.C. Cir. July 17, 1998); *Judson v. United States*, No. 97-5140, 1998 WL 315593, at *1 (D.C. Cir. May 29, 1998); see also *Farris v. United States*, 333 F.3d 1211, 1216 (11th Cir. 2003). The Court thinks the appropriate action is then to transfer the petition to the Court of Appeals for their consideration. *Cephas v. Nash*, 328 F.3d 98, 104 n.5 (2d Cir. 2003); see also *Harris v. United States*, 522 F. Supp. 2d 199, 203 (D.D.C. 2007); see also *Liriano v. United States*, 95 F.3d 119, 123 (2nd Cir. 1996) (per curiam); *In re Sims*, 111 F.3d 45, 47 (6th Cir. 1997); *Coleman v. United States*, 106 F.3d 339, 340-41 (10th Cir. 1997).

As such, it is hereby ordered that Mr. Jones's motion be transferred to the court of appeals for their consideration whether it meets the standards set for under 28 U.S.C § 2244.

SO ORDERED this 27th day of October 2009.



ROYCE C. LAMBERTH
Chief Judge
United States District Court