

UNITED STATES OF AMERICA,

V.

ANTHONY NUGENT,

Defendant.

Crim. No. 91-0559-02 (TFH)  
Civ. Action No. 05-1995

The Court has allowed to be filed as a motion for relief under 28 U.S.C. § 2255 defendant's "Independent Action" brought pursuant to Fed. R. Civ. P. 60(b). The criminal docket reflects plaintiff's unsuccessful attempts for relief under § 2255 and to file a successive motion. *See* Order (D.C. Cir., Jan. 20, 2004) (denying defendant's motion to file a successive motion). Pursuant to 28 U.S.C. § 2244(a), plaintiff must again seek permission from the United States Court of Appeals for the District of Columbia Circuit to file a successive motion. *See* 28 U.S.C. § 2255 ("A . . . successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals. . . ."); *Foster v. United States*, 290 F. Supp. 2d 5, 10 (D.D.C. 2003) (citing cases treating Rule 60(b) motions challenging judgments of conviction as successive habeas petitions).

“Before a second or successive application . . . is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.” 28 U.S.C. § 2244(b)(3). The District of Columbia Circuit

has not certified defendant's motion to be filed. This Court therefore lacks jurisdiction to entertain the motion. *See Moore v. Department of Justice* 1998 WL 545421, \*1 (D.C. Cir., July 17, 1998) ("The district court did not have jurisdiction to entertain appellant's successive § 2254 petition since appellant never obtained certification from the court of appeals to file his successive petition."). A separate Order accompanies this Memorandum.

\_\_\_\_s/\_\_\_\_\_  
Thomas F. Hogan, Chief Judge  
United States District Court

Date: November 14, 2005