

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

v.

WILL ANDERSON,

Defendant.

Criminal Action No. 94-055-01(RCL)

FILED

OCT - 5 2009

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

MEMORANDUM

Defendant Will Anderson's motion to vacate sentence under 28 U.S.C. § 2255 [Dkt. 219] and declaration in support of his motion to vacate [Dkt. 220] are before this Court. For the following reasons, Mr. Anderson's motion is transferred to the Court of Appeals for consideration.

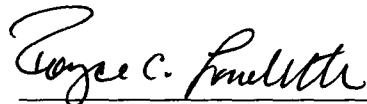
Mr. Anderson previously filed two § 2255 motions. The first was filed on January 13, 2000 [Dkt. 163] and was subsequently dismissed [Dkt. 190] as untimely. The Court of Appeals affirmed in an unpublished opinion. *United States v. Anderson*, 2002 WL 449783 (Feb. 20, 2002). On November 12, 2004, Anderson filed a second 2255 motion [Dkt. 213], which was later denied for lack of subject matter jurisdiction [Dkt. 217]. The instant motion [Dkt. 219] was filed on March 5, 2009.

Successive petitions under § 2255 must be certified by a panel of the Court of Appeals prior to consideration by this Court. 28 U.S.C. §§ 2244(b)(3)(A), 2255(h). As no such certification has been obtained, this Court lacks jurisdiction to consider Mr. Anderson'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. Anderson's § 2255 motion be transferred to the Court of Appeals for their consideration as to whether it meets the standards set forth under 28 U.S.C § 2244.

A separate order shall issue this date.

A handwritten signature in black ink, reading "Royce C. Lamberth". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

ROYCE C. LAMBERTH
Chief Judge
United States District Court