

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

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

09-cr-108-bbc

v.

WAYNER BLACK,

Defendant.

Defendant Wayner Black has filed a Petition for Consideration in which he asks this court to grant him leave to file a second post conviction motion under 28 U.S.C. § 2255. Unfortunately for defendant, this court has no authority to do so. The only recourse he has is to seek certification of a second post conviction motion from the court of appeals. 28 U.S.C. § 2255(h). Obtaining such certification will be difficult for him, if not impossible. He must be able to show that his motion contains “(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found [him] guilty of the offense; or (2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court that was previously unavailable to him.” Id.

ORDER

IT IS ORDERED that defendant Wayner Black's petition for consideration is DISMISSED for lack of jurisdiction.

Entered this 10th day of December, 2013.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge