

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

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UNITED STATES OF AMERICA,

Plaintiff,

v.

DOUGLAS E. CAMPBELL,

Defendant.

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ORDER

95-CR-0063-C

Defendant Douglas Campbell has filed a “Motion to Eliminate Enhancements and Reduce Sentence,” in which he asserts that his Sixth Amendment rights were violated because his March 1996 sentencing was enhanced on the basis of facts found by the sentencing judge and not found by a jury beyond a reasonable doubt. Although defendant’s motion is not captioned as a post conviction motion brought pursuant to 28 U.S.C. § 2255, it must be treated as such a motion. It is filed in the sentencing court and attacks defendant’s sentence. Melton v. United States, 359 F.3d 855, 857 (7th Cir. 2004) (prisoners cannot avoid effect of Anti-Terrorism and Effective Death Penalty Act by inventive captioning).

Defendant filed a § 2255 motion in this court in 2000. That motion was denied; the

denial was affirmed by the Court of Appeals for the Seventh Circuit in 2001.

Defendant is filing his motion in the wrong court. Because he has previously filed a motion for post conviction relief pursuant to 28 U.S.C. § 2255 and because this new motion is properly brought under § 2255, he cannot file it in this court unless he has advance permission to do so from a panel of the Court of Appeals for the Seventh Circuit. 28 U.S.C. § 2255, ¶ 8.

Until defendant has obtained the necessary certification from an appellate panel, this court cannot entertain his motion.

#### ORDER

IT IS ORDERED that defendant Douglas Campbell's "Motion to Eliminate Enhancements and Reduce Sentence" is construed as a motion brought pursuant to 28 U.S.C. § 2255 and DISMISSED because defendant has not obtained certification from the Court of Appeals for the Seventh Circuit to file a second or successive motion.

Entered this 11th day of January, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge