

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

SKYE ARCHAMBAULT,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ORDER

07-cr-159-bbc

Petitioner Skye Archambault has filed a request for permission to file a successive § 2255 petition under Johnson v. United States, 135 S. Ct. 2551 (2015), contending that she is entitled to resentencing under Johnson.

Petitioner's motion must be denied because she does not have a claim under 28 U.S.C. § 2255. Her sentence for armed bank robbery and use of a firearm in furtherance of a crime of violence was not increased under the residual clause in 18 U.S.C. § 924(e)(2)(B)(ii), the clause at issue in Johnson, or under any other provision of the law.

On May 3, 2015, petitioner asked the court to appoint counsel to represent her in filing such a motion. In response, the clerk of court mailed her a notice informing her that her motion was being forwarded to the Federal Defender who will be handling all such motions. Now that she has filed her motion, it is clear that she has no claim, so there is no reason for the Federal Defender to respond to her motion.

Under Rule 11 of the Rules Governing Section 2255 Proceedings, the court must issue or deny a certificate of appealability when entering a final order adverse to a petitioner. To obtain a certificate of appealability, the applicant must make a "substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2); Tennard v. Dretke, 542 U.S. 274, 282 (2004). This means that "reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further." Miller-El v. Cockrell, 537 U.S. 322, 336 (2003) (internal quotations and citations omitted). Petitioner has not made a substantial showing of a denial of a constitutional right so no certificate will issue.

Petitioner is free to seek a certificate of appealability from the court of appeals under Fed. R. App. P. 22, but that court will not consider her request unless he first files a notice of appeal in this court and pays the filing fee for the appeal or obtains leave to proceed in forma pauperis.

ORDER

IT IS ORDERED that petitioner Skye Archambault's motion for permission to file a successive § 2255 petition is DENIED as being without merit. Further, IT IS ORDERED that no certificate of appealability shall issue. Petitioner may seek a certificate from the

court of appeals under Fed. R. App. P. 22.

Entered this 17th day of May, 2016.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge