

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA

v.

Case No: 6:98-cr-91-Orl-41GJK

LEVONIA RIDLEY

ORDER

THIS CAUSE is before the Court on Defendant's All Great Writ in Behalf of the District Court's Lack of Subject Matter Jurisdiction to Apply the Sentencing Enhancement Pursuant to 21 U.S.C. § 851 ("Motion," Doc. 215). The United States filed a Response in Opposition to Motion to Reduce Sentence ("Response," Doc. 217) on March 3, 2018. Defendant filed a Reply to the Government's Response in Opposition to Motion to Reduce Sentence ("Reply," Doc. 218) on March 21, 2018.

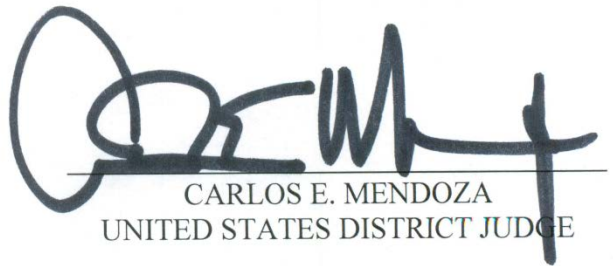
Defendant was charged by Indictment (Doc. 13) with a single count of possession with the intent to distribute cocaine and marijuana in violation of 21 U.S.C. § 812. After a two-day trial, the jury found Defendant guilty as charged. (Verdict Form, Doc. 73). On September 28, 1998, Defendant was sentenced to a term of 262 months in the Bureau of Prisons (Doc. 81). Defendant filed a Notice of Appeal (Doc. 91) on October 6, 1998, and the Eleventh Circuit Court of Appeals affirmed the conviction and sentence on direct appeal (Doc. 118). Defendant unsuccessfully sought relief pursuant to 28 U.S.C. § 2255 (Doc. 133).

In the Motion, Defendant argues that his 1998 conviction is void because the United States District Court lacked subject matter jurisdiction over his case. Defendant purports to bring his claim under 21 U.S.C. § 851. However, it is clear that the Motion should be filed under 28 U.S.C.

§ 2255 because it seeks relief from Defendant's underlying conviction and sentence. Defendant already unsuccessfully filed a 28 U.S.C. § 2255 petition challenging the same conviction and sentence (Doc. 147).

Defendant's Motion is essentially a successive § 2255 petition. This Court cannot consider a second or successive petition until a panel of the Eleventh Circuit Court of Appeals authorizes its filing. 28 U.S.C. § 2255(h). Defendant's Motion will be dismissed without prejudice to allow him an opportunity to obtain the proper authorization.

DONE and **ORDERED** in Orlando, Florida on April 17, 2018.



CARLOS E. MENDOZA
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Party