

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

JARQUEL JENKINS,

Petitioner,

v.

Case Nos.: 2:24-cv-609-SPC-KCD  
2:19-cr-081-SPC-KCD

UNITED STATES OF AMERICA,

Respondent.

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**OPINION AND ORDER**

Before the Court is Jarquel Jenkins' Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (Doc. 1).<sup>1</sup> This is Jenkins' second § 2255 motion. The Court denied his first on January 13, 2023. (Cr-Doc. 80).

“A second or successive [§ 2255] motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals[.]” 28 U.S.C. § 2255(h). Jenkins' second motion, which is based on an intervening change in the law, is subject to the certification requirement. But Jenkins has not shown that the Eleventh Circuit Court of Appeals certified it. The Court will thus

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<sup>1</sup> The Court refers to documents from Case No. 2:24-cv-609-SPC-KCD as “Doc. \_” and documents from Case No. 2:19-cr-081-SPC-KCD as “Cr-Doc. \_.”

deny it without prejudice. Jenkins may re-file the motion if certified by the Eleventh Circuit Court of Appeals.

### **CERTIFICATE OF APPEALABILITY**


A prisoner seeking relief under § 2255 has no absolute entitlement to appeal a district court's denial of his motion. 28 U.S.C. § 2253(c)(1). Rather, a district court must first issue a certificate of appealability (COA). “A [COA] may issue...only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). To make such a showing, a petitioner must demonstrate that “reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong,” *Tennard v. Dretke*, 542 U.S. 274, 282 (2004) (quoting *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)), or that “the issues presented were adequate to deserve encouragement to proceed further,” *Miller–El v. Cockrell*, 537 U.S. 322, 335–36 (2003) (citations omitted). Jenkins has not made the requisite showing here and may not have a certificate of appealability on any ground of his Motion.

Accordingly, it is now

### **ORDERED:**

Jarquel Jenkins’ Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (Doc. 1; Cr-Doc. 81) is **DENIED without prejudice**. The Clerk is **DIRECTED** to enter judgment against Jenkins, terminate any pending deadlines, and close this case.

**DONE** and **ORDERED** in Fort Myers, Florida on July 19, 2024.

  
SHERI POLSTER CHAPPELL  
UNITED STATES DISTRICT JUDGE

SA: FTMP-1

Copies: All Parties of Record