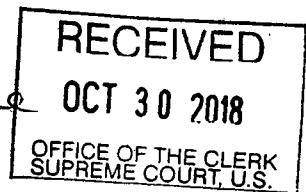


IN THE UNITED STATES SUPREME COURT

DATE: 10-18-2018

CASE NO: _____

MOTION FOR EXTENSION OF TIME



NOW COMES THE PETITIONER ANTHONY R DAWLEY
IN THE ABOVE ENTITLED ACTION PRO-SE, AND
FILES THIS HIS MOTION FOR EXTENSION OF TIME
TO FILE A WRIT OF CERTIORARI, THE PETITIONER'S
DEADLINE TO FILE IS ON THE 25TH OF OCTOBER
WHICH IS THE TIME HE RECEIVED HIS LAST
JUDGEMENT FROM THE APPELLATE COURT (JULY
23RD OF 2018). THE PETITIONER UNDERSTANDS
HE HAS 90 CALENDAR DAYS FROM THE DAY
HE RECEIVES HIS LAST JUDGEMENT. THE FIFTH
CIRCUIT HAS ABUSED ITS POWER BY DENYING
PETITIONER A CERTIFICATE OF APPEALABILITY ON
THE QUESTION OF WHETHER OR NOT HIS SECOND
NUMERICAL 2255 MOTION WAS HIS FIRST OR SECOND,
ALSO ON THE QUESTION OF WHETHER OR NOT HE
IS ENTITLED TO "CASTRO WARNINGS" WHEN HIS
SECOND 2255 WAS RE-CHARACTERIZED AS AN

ATTEMPT TO FILE A SECOND + SUCCESSIVE
2255 WHICH WOULD REQUIRE PERMISSION FROM
THE APPELLATE COURT. THE APPELLANT WISHES
TO EXTEND HIS DEADLINE TO NOVEMBER 8, 2018
WHICH WILL BE 14 DAYS FROM THE 25TH OF OCT.

Prayer

WHEREFORE, PREMISES CONSIDERED THE APPELLANT
RESPECTFULLY REQUEST AN EXTENSION OF 14 DAYS
UNTIL NOVEMBER 8, 2018.

Certificate of Service

I DO HEREBY CERTIFY THAT A TRUE AND
CORRECT COPY OF THIS MOTION FOR EXTENSION
OF TIME HAS BEEN PLACED IN THE US MAIL
POSTAGE PRE-PAID TO THE UNITED STATES SUPREME
COURT 1ST NORTH EAST, WASHINGTON, DC 20543, ALSO
TO MR. DAVID O' TOOLE, US DISTRICT COURT
211 WEST FERGUSON ST. RM. 106 TYLER TX 75702
ON THIS 17TH DAY OF OCTOBER 2018.

Andy Davis

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 17-40464



A True Copy
Certified order issued Jul 23, 2018

Steve W. Caylor

Clerk, U.S. Court of Appeals, Fifth Circuit

Plaintiff-Appellee

UNITED STATES OF AMERICA,

v.

ANTHONY RAY DAILEY,

Defendant-Appellant

Appeal from the United States District Court
for the Eastern District of Texas

O R D E R:

Anthony Ray Dailey, federal prisoner # 60533-080, seeks a certificate of appealability (COA) to appeal the dismissal of his 28 U.S.C. § 2255 motion challenging his concurrent 240-month prison sentences on his three convictions for bank robbery and for aiding and abetting. The district court dismissed the motion for lack of jurisdiction because Dailey had not received authorization from this court before proceeding. *See United States v. Key*, 205 F.3d 773, 774 (5th Cir. 2000).

A COA is required to appeal the dismissal of a § 2255 motion as an unauthorized successive motion. *Cardenas v. Thaler*, 651 F.3d 442, 443 (5th Cir. 2011). Dailey seeks a COA to pursue his claim that his sentences were improperly enhanced on the basis of earlier convictions. Issuance of a COA requires a showing by Dailey "that jurists of reason could disagree with the

No. 17-40464

district court's resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further." *Buck v. Davis*, 137 S. Ct. 759, 773 (2017) (internal quotation marks and citation omitted).

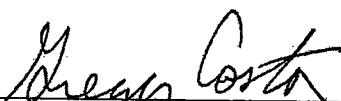
Because Dailey has previously been denied § 2255 relief from his sentences, jurists of reason could not disagree that his § 2255 motion in the instant case is successive. *See Buck*, 137 S. Ct. at 773; *Burton v. Stewart*, 549 U.S. 147, 153 (2007); *In re Lampton*, 667 F.3d 585, 588 (5th Cir. 2012). Nor could jurists of reason disagree that the district court was without jurisdiction to entertain another § 2255 motion challenging the sentences absent this court's authorization. *See* § 2255(h); 28 U.S.C. § 2244(b)(3); *see also Key*, 205 F.3d at 774. As it is unsupported by any meritorious legal argument, Dailey's claim is frivolous, *see Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983), and thus no jurist of reason would conclude that this appeal should be encouraged, *see Buck*, 137 S. Ct. at 773. Accordingly, Dailey's motion for a COA is DENIED. *See Buck*, 137 S. Ct. at 773. Also, the following motions are DENIED: motion for leave to proceed IFP on appeal; motion to present evidence of deliberate fabrication by the Government, *see Icicle Seafoods, Inc. v. Worthington*, 475 U.S. 709, 713-14 (1986); and motion for bail. Dailey's motion for judicial notice is GRANTED.

This court has warned Dailey that frivolous, repetitive, or otherwise abusive filings would invite the imposition of sanctions, possibly including dismissal, monetary sanctions, and restrictions on his ability to file pleadings in this court and any court subject to this court's jurisdiction. Therefore, a monetary sanction of \$200, payable to the clerk of this court, is IMPOSED on Dailey. Additionally, Dailey is BARRED from filing, in this court or any court subject to its jurisdiction, any challenge to his convictions or sentences until

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the sanction is paid in full unless he first obtains leave of the court in which he seeks to file such a challenge. Dailey is WARNED again that filing frivolous challenges to his convictions or sentences in this court or any court subject to this court's jurisdiction will subject him to additional and progressively more severe sanctions. *See In re Lampton*, 667 F.3d at 590.

COA DENIED; IFP DENIED; MOTION FOR LEAVE TO PRESENT EVIDENCE OF DELIBERATE FABRICATION BY THE GOVERNMENT DENIED; BAIL DENIED; MOTION FOR JUDICIAL NOTICE GRANTED; SANCTION IMPOSED; ADDITIONAL SANCTION WARNING ISSUED.



GREGG J. COSTA
UNITED STATES CIRCUIT JUDGE