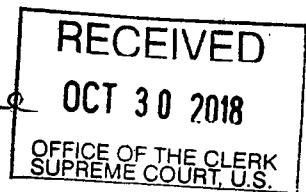


IN THE UNITED STATES SUPREME COURT

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 25<sup>TH</sup> OF OCTOBER  
WHICH IS THE TIME HE RECEIVED HIS LAST  
JUDGEMENT FROM THE APPELLATE COURT (JULY  
23<sup>RD</sup> 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 25<sup>TH</sup> 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 1<sup>ST</sup> 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 17<sup>TH</sup> 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).

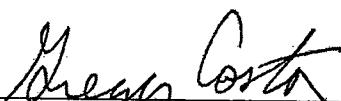
Because Dailey has previously been denied § 2255 relief from his sentences, jurists of reason could not disagree that his § 2255 motion in the instant case is successive. *See Buck*, 137 S. Ct. at 773; *Burton v. Stewart*, 549 U.S. 147, 153 (2007); *In re Lampton*, 667 F.3d 585, 588 (5th Cir. 2012). 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

No. 17-40464

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