

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 20-2339

Robert Dinkins

Petitioner - Appellant

v.

United States of America

Respondent - Appellee

Appeal from U.S. District Court for the Eastern District of Missouri - St. Louis
(4:20-cv-00133-AGF)

JUDGMENT

Before LOKEN, SHEPHERD, and GRASZ, Circuit Judges.

The district court's orders of March 30, 2020, June 2, 2020, and June 5, 2020 have been considered by this court and are summarily affirmed.

July 02, 2020

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MEMORANDUM AND ORDER

Before the Court is movant's post-dismissal motion for investigation and his supplemental motion seeking compassionate release. Movant's motions will be denied.

On July 8, 2015, a one-count indictment charged movant with felon in possession of a firearm in violation of 18 U.S.C. §§ 922(g)(1) and 924(e)(1). *United States v. Dinkins*, Case No. 4:15-CR-314 ERW (E.D. Mo.).¹ Movant waived his right to a jury trial and requested a bench trial. At trial, the Court found movant guilty and subsequently sentenced him as an Armed Career Criminal to 180 months of imprisonment. With the assistance of counsel, movant filed a timely appeal to the Eighth Circuit Court of Appeals. In his appeal, movant argued that the District Court erred in finding him guilty of being a felon in possession of a firearm because he was legally justified in possessing the firearm to protect himself and the community from imminent danger.

On May 26, 2017, the Eighth Circuit Court of Appeals affirmed the judgment of the District Court. *United States v. Dinkins*, 688 F. App'x 408 (8th Cir. 2017).

Movant sought to overturn his conviction on six separate occasions. *See Dinkins v. United States*, 4:17-CV-2296 CAS (E.D.Mo.); *Dinkins v. United States*, 4:19-CV-1688 CAS (E.D.Mo.);

¹The Honorable Carol E. Jackson tried movant's criminal case. She has since retired. On February 7, 2020, movant's criminal case was transferred to the undersigned judge.

Dinkins v. United States, 4:19-CV-1839 CAS (E.D. Mo.); *Dinkins v. United States*, 4:19-CV-1920 CAS (E.D. Mo); *Dinkins v. United States*, 4:19-CV-2903 ERW (E.D. Mo); *Dinkins v. United States*, 4:20-CV-133 AGF (E.D. Mo). His requests have been denied each time.

On June 2, 2020, the Court denied movant's first motion for compassionate release due to the Covid-19 pandemic. Movant filed the instant motions for "investigation" and his supplemental motion for compassionate release on June 4, 2020. In the instant motions before the Court, movant asserts that defendant has continued to hold him unlawfully after he has submitted exhibits showing that he is actually innocent of the crimes for which he is being held. Movant seeks an investigation into the unlawful confinement. Movant additionally states that he would like a ten-day extension of time to supplement his motion for compassionate release.

Discussion

Movant's motion for investigation is nothing more than a motion for reconsideration of this Court's prior rulings on his six motions to vacate. After reviewing the grounds raised by movant, the Court will decline to alter or amend the prior judgments of this Court. Movant's motion fails to point to any manifest errors of law or fact, or any newly discovered evidence. Instead, the motion can be said to merely revisit old arguments. Petitioner is therefore not entitled to reconsideration of the dismissal of his prior motions to vacate, and his motion to investigate will be denied.

Movant's motion for extension of time to file an amended motion for compassionate release, or a supplemental motion for compassionate release will also be denied. The Court has addressed movant's arguments relating to his motion for compassionate release in its June 2, 2020 Memorandum and Order. Movant does not qualify for release under the First Step Act, and as he

was told in the prior Order, he is required to first seek compassionate release with the Bureau of Prisons.

Accordingly,

IT IS HEREBY ORDERED that movant's motion for investigation [Doc. #14] is **DENIED**.

IT IS FURTHER ORDERED that movant's motion to supplement his motion for compassionate release, or alternatively for extension of time to file an amended motion for compassionate release, [Doc. #14] is **DENIED**.

IT IS FURTHER ORDERED that no certificate of appealability shall issue.

IT IS FURTHER ORDERED that movant shall not file any additional post-dismissal motions in this closed case, save a notice of appeal, or motions relating to his appeal.

Dated this 5th day of June, 2020.

Audrey G. Fleissig
AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

United States Court of Appeals

For The Eighth Circuit

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Clerk of Court

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July 02, 2020

Mr. Robert Dinkins
U.S. PENITENTIARY
42737-044
P.O. Box 150160
Atlanta, GA 30315-0000

RE: 20-2339 Robert Dinkins v. United States

Dear Mr. Dinkins:

Enclosed is a copy of the dispositive order entered today in the referenced case.

Please review Federal Rules of Appellate Procedure and the Eighth Circuit Rules on post-submission procedure to ensure that any contemplated filing is timely and in compliance with the rules. Note particularly that petitions for rehearing must be received by the clerk's office within the time set by FRAP 40 in cases where the United States or an officer or agency thereof is a party (within 45 days of entry of judgment). Counsel-filed petitions must be filed electronically in CM/ECF. Paper copies are not required. Pro se petitions for rehearing are not afforded a grace period for mailing and are subject to being denied if not timely received.

Michael E. Gans
Clerk of Court

JPP

Enclosure(s)

cc: Ms. Sayler Anne Ault Fleming
Mr. Gregory J. Linhares
Mr. Thomas Joseph Mehan

District Court/Agency Case Number(s): 4:20-cv-00133-AGF

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MANDATE

In accordance with the judgment of 07/02/2020, and pursuant to the provisions of Federal Rule of Appellate Procedure 41(a), the formal mandate is hereby issued in the above-styled matter.

August 24, 2020


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