

No. 23-3116
APPENDIX

- (A). 8th Circuit Court's ruling
- (B). Denial for rehearing

A

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

No: 23-3116

Bryan Lee Gregory

Movant - Appellant

v.

United States of America

Respondent - Appellee

Appeal from U.S. District Court for the Western District of Missouri - Springfield
(6:20-cv-03294-SRB)

JUDGMENT

Before SHEPHERD, GRASZ, and STRAS, Circuit Judges.

This appeal comes before the court on appellant's application for a certificate of appealability. The court has carefully reviewed the original file of the district court, and the application for a certificate of appealability is denied. The appeal is dismissed.

The motion for remand is denied.

October 12, 2023

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

/s/ Michael E. Gans

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

B

No: 23-3116

Bryan Lee Gregory

Appellant

v.

United States of America

Appellee

Appeal from U.S. District Court for the Western District of Missouri - Springfield
(6:20-cv-03294-SRB)

ORDER

The petition for rehearing by the panel is denied.

December 08, 2023

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

/s/ Michael E. Gans

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION

BRYAN L. GREGORY,

Movant,

vs.

UNITED STATES OF AMERICA,

Respondent.

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)
)
) Case No. 20-3294-CV-S-SRB-P
) (Criminal No. 17-03044-01-CR-S-SRB)
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)

ORDER

This case involves a *pro se*-filed motion to vacate sentence pursuant to 28 U.S.C. § 2255. Over two years ago, on May 18, 2021, the Court denied relief and dismissed this case. Doc. 55. The Court of Appeals summarily affirmed this Court's judgment. Doc. 63. Pending before the Court is Movant's 58-page "Petition to Vacate Sentence and Conviction Pursuant to Federal Court Rule-60 (B)," in which he seeks relief from judgment based on 18 issues. Doc. 67, pp. 1-5.

In *Boyd v. United States*, 304 F.3d 813, 814 (8th Cir. 2002) the Court of Appeals instructed:

In order to establish a uniform procedure throughout the Circuit, we encourage district courts, in dealing with purported Rule 60(b) motions following the dismissal of [§ 2255 cases], to employ a procedure whereby the district court files the purported Rule 60(b) motion and then conducts a brief initial inquiry to determine whether the allegations in the Rule 60(b) motion in fact amount to a second or successive collateral attack under [§ 2255]. If the district court determines the Rule 60(b) motion is actually a second or successive [§ 2255 motion], the district court should dismiss it for failure to obtain authorization from the Court of Appeals[.]

Having reviewed the record, the Court finds that Movant's Rule 60(b) motion is actually a second § 2255 motion, and the Court denies the motion (Doc. 67) without prejudice to Movant obtaining authorization from the Court of Appeals for this Court to consider his claims. Movant's related requests (Docs. 68-70) also are denied. With specific regard to Movant's request that the undersigned recuse himself from this case, the Court finds that Movant has stated no legitimate basis for disqualification. See 28 U.S.C. § 455 (criteria for disqualification).

So **ORDERED**.

/s/ Stephen R. Bough
STEPHEN R. BOUGH

UNITED STATES DISTRICT JUDGE

Dated: June 15, 2023.