

Inmate Received, at Prison, on 10/28/2024. B-1

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

October 16, 2024

Lyle W. Cayce  
Clerk

No. 24-50530

IN RE ROBERT TIMOTHY BLAKE,

*Movant.*

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Motion for an Order Authorizing  
the United States District Court  
for the Western District of Texas  
to Consider a Successive 28 U.S.C. § 2255 Motion

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UNPUBLISHED ORDER

Before JONES, DUNCAN, and DOUGLAS, *Circuit Judges*.

PER CURIAM:

Robert Timothy Blake, federal prisoner # 46959-380, has moved for authorization to file a successive 28 U.S.C. § 2255 motion attacking his guilty-plea convictions and sentences for distribution of child pornography and possession of child pornography. He maintains that he has newly discovered evidence establishing that his Fourth Amendment rights were violated when agents executed a warrantless search of a password-protected email account; the search warrant and probable cause affidavit omitted details and set forth false and misleading information; the finding that there was probable cause for the search was not supported by accurate and true facts; his presentence report contained factual errors; his trial counsel failed to obtain and challenge the validity and accuracy of the search warrant and

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probable cause affidavit; his trial counsel failed to discuss the search warrant materials or affidavit with him and was unable to provide proper advice as to whether a guilty plea was suitable in light of the contents of those documents; the district court violated Federal Rule of Criminal Procedure 11 in administering his guilty plea; and the Government withheld evidence and made false statements in connection with the search warrant materials and affidavit. He further alleges that he has obtained a previously withheld police report detailing false accusations about his involvement with child pornography and argues that the Government did not produce evidence supporting that he did not know that he was in receipt and possession of child pornography images. Additionally, he asserts that the reports for interviews that he conducted with agents for the Federal Bureau of Investigation omit information and contain falsehoods and contends that the prosecutor made false statements at sentencing.

A prisoner seeking to file a second or successive § 2255 motion must obtain prior leave from this court. *See* 28 U.S.C. § 2255(h); 28 U.S.C. § 2244(b)(3)(A). To obtain authorization, a prisoner must make a prima facie showing that his motion is based on (1) “newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense” or (2) “a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.” 28 U.S.C. § 2255(h); *see* 28 U.S.C. § 2244(b)(3)(C); *United States v. Hanner*, 32 F.4th 430, 434 (5th Cir. 2022). We will not consider claims that were raised in a previous § 2255 motion. *See* 28 U.S.C. § 2244(b)(1); *In re Bourgeois*, 902 F.3d 446, 447-48 (5th Cir. 2018).

Blake has not made the required prima facie showing. He specifically has failed to demonstrate that his claims rely upon newly discovered evidence

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that would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found him guilty of the offenses. *See* 28 U.S.C. § 2255(h)(1); *Hanner*, 32 F.4th at 434. Further, some of the claims that he raises are not cognizable under § 2255 and cannot provide a basis for authorization. *See In re Gentras*, 666 F.3d 910, 911 (5th Cir. 2012).

Thus, IT IS ORDERED that Blake's motion for authorization is DENIED. Many of Blake's instant claims are essentially identical to claims that he raised in his prior motion for authorization to file a successive § 2255 motion, and he largely relies on the same "newly discovered" evidence. He therefore is WARNED that the filing of repetitive or frivolous motions may result in sanctions, including dismissal, monetary sanctions, and restrictions on his ability to file pleadings in this court and any court subject to this court's jurisdiction.

**Additional material  
from this filing is  
available in the  
Clerk's Office.**