UNITED STATES COURT OF APPEALS

TENTH CIRCUIT

UNITED STATES OF AMERICA,

    Plaintiff - Appellee,

v.

RANDY STEPHEN GREEN,

    Defendant - Appellant.

No. 13-7052
(D.C. No. 05-CR-00084-RAW-1)
(E.D. Okla.)

ORDER DISMISSING APPEAL

Before **KELLY**, **HOLMES**, and **MATHESON**, Circuit Judges.

Randy Green, appearing pro se, wrote a letter to the district court attacking his conviction and sentence. The district court denied relief in a minute order "to the extent [Mr. Green's] letter . . . can be construed as a motion." R. 10. Mr. Green now appeals. The district court lacked jurisdiction to make a merits determination on a second or successive petition without our authorization. 28 U.S.C. §§ 2255(h); 2244(b)(3)(A). We deny authorization and instruct the district court to vacate its order and dismiss the motion for lack of jurisdiction. See In re Cline, 531 F.3d 1249, 1251-52 (10th Cir. 2008).

On August 14, 2006, Mr. Green was convicted on five counts of embezzlement and sentenced to 51 months' imprisonment. R. 98-99. He did not appeal his conviction or sentence. Mr. Green filed a 28 U.S.C. § 2255 motion in 2007. That motion was denied and this court dismissed the appeal for failure to prosecute. Green v. United States, No. 08-7066 (10th Cir. Oct. 22, 2008). Mr. Green filed a motion for authorization to file a second or successive § 2255 motion in 2009, which we denied. In re Green, No. 09-7071 (10th Cir. Aug. 26, 2009). We have reviewed the claims Mr. Green presses here and find several identical or substantially similar to the claims advanced in the previous motion for authorization. Those issues that are not simply do not meet the requirements of 28 U.S.C. § 2255(h) for a successive petition.

We DENY authorization to file a second or successive § 2255 motion, DENY IFP status, and DISMISS the appeal. The district court should vacate its order and dismiss Mr. Green's motion for lack of jurisdiction.

Entered for the Court

Paul J. Kelly, Jr.
Circuit Judge