

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

KATHALEENA KAUFMAN,)
)
 Petitioner,)
)
 vs.) No. 1:16-cv-02005-TWP-DKL
)
 UNITED STATES OF AMERICA,)
)
 Respondent.)

**Entry Dismissing Motion for Relief Pursuant to 28 U.S.C. § 2255
and Denying Certificate of Appealability**

I. Section 2255 Motion

Kathaleena Kaufman was convicted, after pleading guilty, in No. 1:12-cr-00212-TWP-TAB-2, of conspiring to possess with the intent to distribute, and to distribute 50 grams or more of methamphetamine, in violation of 21 U.S.C. § 841(a)(1). Judgment was entered on May 1, 2014.

Ms. Kaufman filed a motion seeking relief pursuant to 28 U.S.C. § 2255 on October 14, 2014, in 1:14-cv-01677-TWP-MJD, which was dismissed on the merits. Judgment was entered on June 22, 2015.

Ms. Kaufman filed this second motion under § 2255 on July 27, 2016. When there has already been a decision on the merits in a federal habeas action, to obtain another round of federal collateral review a petitioner requires permission from the Court of Appeals under 28 U.S.C. § 2244(b). *See Potts v. United States*, 210 F.3d 770, 770 (7th Cir. 2000). This statute, § 2244(b)(3), “creates a ‘gatekeeping’ mechanism for the consideration of second or successive [habeas] applications in the district court.” *Felker v. Turpin*, 518 U.S. 651, 657 (1996); *see*

Benefiel v. Davis, 403 F.3d 825, 827 (7th Cir. 2005); *United States v. Lloyd*, 398 F.3d 978, 979-80 (7th Cir. 2005).

The present action is another attempt to collaterally challenge the conviction in No. 1:12-cr-00212-TWP-TAB-2, however, it is presented without authorization to proceed from the Court of Appeals. Accordingly, this action must be dismissed for lack of jurisdiction pursuant to Rule 4 of the *Rules Governing Section 2255 Proceedings for the United States District Courts*. Judgment consistent with this Entry shall now issue.

This Entry shall be docketed in the underlying criminal action, No. 1:12-cr-00212-TWP-TAB-2.

II. Denial of Certificate of Appealability

Pursuant to Federal Rule of Appellate Procedure 22(b), Rule 11(a) of the *Rules Governing § 2255 Proceedings*, and 28 U.S.C. § 2253(c), the Court finds that Ms. Kaufman has failed to show that reasonable jurists would find it “debatable whether [this court] was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). The Court therefore **denies** a certificate of appealability.

IT IS SO ORDERED.

Date: 7/29/2016

Distribution:

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TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana

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