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JULIA C. DUDLEY, CLERK
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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
DANVILLE DIVISION

UNITED STATES OF AMERICA

Case No. 4:05-cr-00011-1

v.

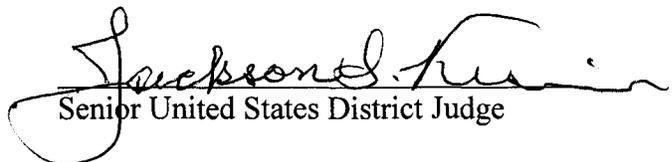
MEMORANDUM OPINION

WILLIE JUNIOR MCCAIN,
Petitioner.

By: Hon. Jackson L. Kiser
Senior United States District Judge

Petitioner Willie Junior McCain, a federal inmate proceeding pro se, filed a motion to vacate, set aside, or correct sentence, pursuant to 28 U.S.C. § 2255. Court records reveal that Petitioner previously filed a § 2255 motion for the same conviction and/or sentence. See McCain v. United States, No. 7:07-cv-00301, slip op. at 5 (W.D. Va. Apr. 29, 2008). Thus, Petitioner's current § 2255 motion is a second or subsequent one under § 2255(h). I may consider a second or successive § 2255 motion from Petitioner only upon specific certification from the Fourth Circuit Court of Appeals that a claim in the motion meets certain criteria. See 28 U.S.C. § 2255(h). As Petitioner has not submitted evidence of having obtained certification to file a second or successive § 2255 motion, I must dismiss the § 2255 motion without prejudice. Based upon my finding that Petitioner has not made the requisite substantial showing of denial of a constitutional right as required by 28 U.S.C. § 2253(c), a certificate of appealability is denied.

ENTER: This 20th day of November, 2013.


Senior United States District Judge