IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF KANSAS

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

Vs. Civil Case No. 05-3240-SAC
Criminal Case No. 89-10054-01-SAC

RICHARD R. LACEY

Defendant/Movant.

MEMORANDUM AND ORDER

In its order filed April 14, 1999, the court summarized the procedural history to this case. (Dk. 549). The court adopts by reference that summary and highlights that the defendant's first motion for relief under 28 U.S.C. § 2255 was denied as untimely both at the district court and appellate court levels and that any subsequent § 2255 motion would require certification from a Tenth Circuit panel pursuant to 28 U.S.C. § 2244.

The defendant's most recent filing (Dk. 562) seeks relief pursuant to 28 U.S.C. § 2255 arguing the recent decision of *Blakely v. Washington*, 124 S. Ct. 2531 (2004). Under 28 U.S.C. § 2244, a prisoner may not file a successive motion under § 2255 without first obtaining permission from the court of appeals. *See Daniels v. United States*, 254 F.3d 1180, 1188 (10th Cir. 2001). Therefore, this

court is without jurisdiction to rule on this filing. *See United States v. Avila-Avila*, 132 F.3d 1347, 1348-49 (10th Cir. 1997).

IT IS THEREFORE ORDERED that the defendant's unauthorized successive § 2255 motion is transferred to the Tenth Circuit Court of Appeals pursuant to 28 U.S.C. § 1631;

IT IS FURTHER ORDERED that the Clerk of the Court shall forward a copy of the defendant's motion (Dk. 562) to the Clerk of the Tenth Circuit Court of Appeals for processing under 28 U.S.C. § 2244(b)(3). The Clerk also shall send a copy of this Memorandum and Order to the defendant and the local office of the United States Attorney.

Dated this 1st day of June, 2005, Topeka, Kansas.

s/ Sam A. Crow
Sam A. Crow, U.S. District Senior Judge