

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 94-CR-10129-01-JTM

No. 16-CV-1231-JTM

PHUOC H. NGUYEN,

Defendant.

**MEMORANDUM AND ORDER DENYING  
SUCCESSIVE MOTION TO VACATE SENTENCE**

Defendant Phuoc Nguyen filed a second or successive motion to vacate his sentence pursuant to 28 U.S.C. § 2255 on October 21, 2016 (Dkt. 270). Subsection (h) of § 2255 requires a petitioner to first move the court of appeals for an order authorizing the district court to hear the motion. Nguyen has neither received nor even sought permission from the Tenth Circuit Court of Appeals to pursue his claims as required by § 2255(h). Thus, this court lacks jurisdiction to address the merits of this motion. And because this motion raises the same arguments as his previous § 2255 motion, the court finds referral of this motion to the Tenth Circuit would serve no legitimate purpose. For these reasons, the court dismisses this motion for lack of jurisdiction.

**IT IS THEREFORE ORDERED** this 25th day of October, 2016, that Nguyen's motion to vacate (Dkt. 270) is **DISMISSED**.

s/ J. Thomas Marten  
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J. THOMAS MARTEN, District Judge