

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF KANSAS

UNITED STATES OF AMERICA,

Plaintiff/Respondent,

vs.

Civil Case No. 04-3400-SAC
Criminal Case No. 00-40024-03-SAC

TIMOTHY J. CLINE,

Defendant/Movant.

ORDER

The case comes before the court on the defendant's motion for reconsideration and clarification. (Dk. 2066). The defendant filed a motion for writ of audita querela (Dk. 2062), and the court construed this filing as a successive petition pursuant to 28 U.S.C. § 2255. (Dk. 2063). The court found it lacked subject matter jurisdiction to consider this motion until the defendant obtained prior authorization from the Tenth Circuit Court of Appeals pursuant to 28 U.S.C. § 2244 (b)(3)(A). *Id.* Consequently, the court transferred the motion to the Tenth Circuit pursuant to 28 U.S.C. § 1631. *Id.* The defendant now seeks reconsideration arguing this court erred in not considering the merits of his motion and issuing findings of fact and conclusions of law.

The court summarily denies the defendant's motion for reconsideration as this court was without jurisdiction to consider the merits of his successive petition and was required to transfer the same to the Tenth Circuit for prior authorization. *See United States v. Herrera*, 216 Fed. Appx. 809, 810-811, 2007 WL 475874 at *1 (10th Cir. 2007).

IT IS THEREFORE ORDERED that the motion for reconsideration and clarification (Dk. 2066) is denied.

Dated this 21st day of August, 2007, Topeka, Kansas.

s/ Sam A. Crow

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