

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

United States of America,

Plaintiff,

v.

Case No. 04-20150-JWL

Larry Rucker,

Defendant.

MEMORANDUM & ORDER

On May 20, 2016, Mr. Rucker filed an application for leave to file a successive § 2255 petition with the Tenth Circuit. On June 24, 2016, the Circuit abated that application pending further proceedings. The Circuit has not yet ruled on the application. Based on a presumptive June 27, 2016 deadline to file any § 2255 petitions based on *Johnson v. United States*, 135 S. Ct. 2551 (2015), Mr. Rucker filed his successive § 2255 petition in this court on June 24, 2016 and simultaneously filed a motion to stay consideration of the motion until he receives a ruling from the Circuit on his application. The court concludes that Mr. Rucker's filing of the application with the Circuit tolls the one-year statute of limitations and that the limitations period remains tolled until the Circuit rules on the application. *See Orona v. United States*, ___ F.3d ___, 2016 WL 3435692 (9th Cir. June 22, 2016). A stay, then, is unnecessary.

IT IS THEREFORE ORDERED BY THE COURT THAT Mr. Rucker's motion to stay (doc.91) is moot.

IT IS SO ORDERED.

Dated this 29th day of June, 2016, at Kansas City, Kansas.

s/ John W. Lungstrum
John W. Lungstrum
United States District Judge