

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

Tong Sayonh,

Petitioner,

vs.

Case No. 06-10206-JTM

United States of America,

Respondent.

MEMORANDUM AND ORDER

This matter is before the court on a Motion to Reduce Sentence filed by petitioner-defendant Tong Sayonh. Sayonh pleaded guilty to various charges on November 20, 2006, and the court sentenced him to 188 months in custody. On January, 22, 2008, Sayonh filed a Motion to Vacate under 28 U.S.C. § 2255. Before the court's ruling on the motion, Sayonh filed an appeal to the Tenth Circuit, which dismissed the appeal as premature. On July 29, 2008, the district court denied the motion, because Sayonh waived appeal in his plea agreement. Sayonh filed the present motion over two years later, on August 30, 2010.

Sayonh moves for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2). Jurisdiction over a § 3582 claim for reduced sentence may only be granted by one of three methods: (1) a motion from the Director of the Bureau of Prisons, (2) a Rule 35 motion, or (3) a sentence range reduction by the Sentencing Commission. *United States v. Green*, 504 F.3d 1180, 1184 (10th Cir.

2005). None of these jurisdictional grants are available here, therefore this Court has no jurisdiction over Sayonh's § 3582 claim.

Furthermore, Sayonh's claim is also barred because it constitutes a second or successive motion for collateral relief under § 2255. Without authorization from the Tenth Circuit, this court does not have jurisdiction to consider the motion or its merits. *See In re Cline*, 531 F.3d 1249, 1250-52 (10th Cir. 2008).

IT IS ACCORDINGLY ORDERED this 3rd day of December, 2010, that the petitioner's Motion to Reduce Sentence (Dkt. No. 62) is denied.

s/ J. Thomas Marten
J. THOMAS MARTEN, JUDGE