

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

GERARDO MOJICA-FABIAN,

Defendant.

**Case No. 06-20062
10-2016**

MEMORANDUM AND ORDER

Defendant Gerardo Mojica-Fabian was convicted by a jury of possession and conspiracy with intent to distribute and possess 50 grams or more of methamphetamine. He received a 235-month prison sentence. The Tenth Circuit affirmed Mr. Mojica-Fabian's conviction and sentence. *United States v. Mojica-Fabian*, No. 07-3006, 2008 WL 343448 (10th Cir. Feb. 7, 2008).

Mr. Mojica-Fabian filed a pro se motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255 (doc. 92), which this court denied (doc. 101). He then filed a motion to reconsider (doc. 103), which this court denied in part and dismissed in part as a second or successive petition (doc. 108).

Mr. Mojica-Fabian has now filed a motion to vacate the judgment (doc. 110) that is substantially similar to his motion to reconsider. For the reasons set for in this courts previous order, this latest motion is also denied. And again, the court declines to issue

a certificate of appealability.

IT IS THEREFORE ORDERED BY THE COURT that defendant's motion to vacate (doc. 110) is **denied**. The court declines to issue a certificate of appealability.

IT IS SO ORDERED this 8th day of December, 2010.

s/ John W. Lungstrum

John W. Lungstrum

United States District Judge