

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

United States of America,

Plaintiff,

v.

Case No. 07-20168-22-JWL

Keith McDaniel,

Defendant.

MEMORANDUM & ORDER

Following a federal jury trial, Keith McDaniel was convicted of various federal cocaine-related drug charges. The Tenth Circuit affirmed his conviction on direct appeal. *See United States v. McDaniel*, 433 F. App'x 701 (10th Cir. 2011). Mr. McDaniel then filed a pro se § 2255 habeas petition arguing that he received ineffective assistance of trial and appellate counsel. This court denied the petition in its entirety and denied the request for a hearing. In October 2013, the court dismissed for lack of jurisdiction Mr. McDaniel's subsequently filed motion for reconsideration of that order. In February 2014, the Tenth Circuit denied Mr. McDaniel's application for a certificate of appealability to appeal the court's denial of his § 2255 motion.

Mr. McDaniel has now filed an amended motion to suppress the contents of wire intercepts pursuant to 18 U.S.C. § 2518(10)(a). Mr. McDaniel has asserted no basis for the court's jurisdiction in this closed criminal case and the court discerns none. *See United States v. Woods*, 2016 WL 3457754, at * (10th Cir. June 21, 2016) (district court does not have jurisdiction over all post-conviction motions). Regardless of how he characterizes his motion,

the substance of the arguments asserted in Mr. McDaniel's motion may only be asserted pursuant to 28 U.S.C. § 2255 because he is reasserting a challenge to his underlying conviction. *See United States v. Springer*, 875 F.3d 968, 974 (10th Cir. 2017). Mr. McDaniel has not obtained authorization from the Circuit to file a successive § 2255 motion and, thus, this court lacks jurisdiction to resolve it.

IT IS THEREFORE ORDERED BY THE COURT THAT Mr. McDaniel's amended motion to suppress (doc. 1808) is **dismissed for lack of jurisdiction.**

IT IS SO ORDERED.

Dated this 14th of December, 2017, at Kansas City, Kansas.

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