

**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 a motion asking the court to review in camera the grand jury testimony of Eric Jones so that the court might "verify . . . false trial testimony." 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, once again, 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 motion for in camera review of grand jury testimony (doc. 1827) is **dismissed for lack of jurisdiction.**

IT IS SO ORDERED.

Dated this 28th day of February, 2018, at Kansas City, Kansas.

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