

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 13-10140-JTM

MARISELA RAMIREZ,

Defendant.

MEMORANDUM AND ORDER

This matter comes before the court on defendant's motion to amend pursuant to Fed. R. Civ. P. 15(c)(1)(B). (Dkt. 179). Defendant seeks authorization from this court to amend her motion to vacate her sentence under 28 U.S.C. § 2255, filed on June 30, 2016 (Dkt. 171). This court, however, denied that motion to vacate on August 12, 2016 (Dkt. 177). As such, the requested amendment is untimely and moot.

Alternatively, the requested amendment is a successive § 2255 motion, which this court lacks jurisdiction to address unless the appropriate court of appeals first certifies that it contains "newly discovered evidence . . . or a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable." 28 U.S.C. § 2255(h); *In re Cline*, 531 F.3d 1249, 1251 (10th Cir. 2008). Because the motion fails to demonstrate that defendant could satisfy the requirements for filing a successive petition, the court concludes it is not in the interests of justice to transfer this action to the Tenth Circuit Court of Appeals pursuant to 28 U.S.C. § 1631. *Cline*, 531 F.3d at 1252 (transfer of successive § 2255 motion to circuit court not mandatory; district court may dismiss motion for lack of jurisdiction). Accordingly, to

the extent the motion is a successive § 2255 motion, the court dismisses it for lack of jurisdiction.

IT IS THEREFORE ORDERED this 24th day of April, 2017, that defendant's motion to amend (Dkt. 179) is **DENIED**. To the extent the motion is a successive § 2255 motion, it is **DISMISSED** for lack of jurisdiction.

s/ J. Thomas Marten
Chief United States District Judge