

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

March 8, 2017

Elisabeth A. Shumaker
Clerk of Court

In re:

BLAKE CHRISTOPHER TADEMY,

Movant.

No. 17-4030
(D.C. Nos. 2:15-CV-00517-DAK &
2:12-CR-00543-DAK-1)
(D. Utah)

ORDER

Before **BRISCOE**, **LUCERO**, and **HARTZ**, Circuit Judges.

Blake Christopher Tademey, a federal prisoner proceeding pro se, moves for authorization to file a second or successive 28 U.S.C. § 2255 motion. We deny authorization.

In 2013, Mr. Tademey pleaded guilty to possessing methamphetamine with intent to distribute in violation of 21 U.S.C. § 841 and to possessing a firearm in furtherance of a drug-trafficking crime in violation of 18 U.S.C. § 924(c). He was sentenced to two consecutive 60-month sentences. He did not appeal.

In 2015, Mr. Tademey filed a § 2255 motion asserting that certain Utah police officers had been indicted for, pleaded guilty to, or found guilty of corruption. He alleged that these officers participated in his investigation and arrest, and that they fabricated and manipulated the evidence. He claimed his counsel was ineffective for not believing his allegations regarding the officers' corruption, for not investigating whether the officers were involved in his case, and for telling him that one of the implicated

officers was not involved with his case, when that officer actually had been involved.

The district court denied relief because the § 2255 motion was untimely and Mr. Tademý had failed to establish that the circumstances warranted equitable tolling. *United States v. Tademý*, No. 2:15-cv-00517-DAK, slip op. at 2, 4 (D. Utah Oct. 1, 2015). Again, Mr. Tademý did not appeal.

Mr. Tademý now seeks authorization to bring second or successive § 2255 claims alleging (1) violations of due process through police corruption, and (2) ineffective assistance of counsel. He proceeds under § 2255(h)(1), which requires him to show that his claims rely on “newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found [him] guilty of the offense.” But he does not identify any evidence that is “newly discovered” since his first § 2255 motion.

The information about officers’ corruption and his attorney’s performance clearly was available to Mr. Tademý before he filed his first § 2255 motion, given that the § 2255 motion was founded on that information. Although Mr. Tademý attaches numerous documents to his motion for authorization, no attachment establishes that he discovered any of his evidence after his first § 2255 motion. For example, he presents several e-mail messages in which his wife forwarded articles about the corruption, but they all were sent in March 2015, several months before he filed his first § 2255 motion. He also attaches excerpts from federal civil court cases, but those cases were pending (and most of the cited decisions were filed) before his first § 2255 motion. And his affidavit and his wife’s affidavit discuss their investigative activities between 2013 and

2015, but fail to establish that any of his evidence is newly discovered since his first § 2255 motion. Mr. Tademy therefore fails to satisfy § 2255(h)(1).

The motion for authorization is denied. This denial of authorization “shall not be appealable and shall not be the subject of a petition for rehearing or for a writ of certiorari.” 28 U.S.C. § 2244(b)(3)(E).

Entered for the Court

A handwritten signature in cursive script, reading "Elisabeth A. Shumaker", followed by a long horizontal flourish.

ELISABETH A. SHUMAKER, Clerk