

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

August 26, 2019

Elisabeth A. Shumaker
Clerk of Court

In re: ROGER BUJANDA,

Petitioner.

No. 19-1284
(D.C. No. 1:17-CR-00311-RBJ-1)
(D. Colo.)

ORDER

Before **MATHESON, PHILLIPS, and McHUGH**, Circuit Judges.

Roger Bujanda, proceeding pro se, moves for authorization to file a second or successive 28 U.S.C. § 2255 motion to vacate, set aside, or correct his sentence. Bujanda pleaded guilty to possession with intent to distribute heroin. Judgment was entered in June 2018. He now seeks this court's authorization to bring a claim challenging his sentence under the Supreme Court's recent holding in *United States v. Davis*, 139 S. Ct. 2319 (2019).

Bujanda states in his motion for authorization that he did not file a direct appeal, nor has he filed a *first* § 2255 motion. Our review of the district court's docket in his criminal case confirms these representations. Because Bujanda's § 2255 motion would be his first such motion, it is not subject to the authorization requirements for second or successive motions in § 2255(h). Consequently, he does not need this court's authorization to file his proposed § 2255 motion in the district court.

We dismiss Bujanda's motion for authorization as unnecessary. In doing so, we express no opinion on the merits of his proposed § 2255 motion. We deny as moot his motion to appoint counsel in this matter.

Entered for the Court

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

ELISABETH A. SHUMAKER, Clerk