

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : CIVIL ACTION
: NO. 05-3455
vs. :
: CRIMINAL ACTION
NAFIS WOODS : NO. 00-273-02

MEMORANDUM

ROBERT F. KELLY, Sr. J.

OCTOBER 19, 2005

Presently before the Court is the motion of Nafis Woods for relief under 28 U.S.C. § 2255. This was filed on July 6, 2005.

Woods was sentenced on September 7, 2001. This sentence was affirmed by the Third Circuit Court of Appeals on January 21, 2003. Woods did not seek a Writ of Certiorari, therefore his judgment of sentence became final on April 21, 2003.

Section 2255 motions are governed by a one year limitations period which runs from the latest of, for purposes of this case, “the date on which the judgment of sentence became final”, 28 U.S.C. § 2255 ¶ 6(1), “or the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to causes on collateral review” 28 U.S.C. § 2255 ¶ 6(3).

It is clear that the present motion was filed well beyond the one year limitations period set forth in 28 U.S.C. § 2255 ¶ 6(1).

With regard to basing his § 2255 motion on United States v. Booker, 125 S. Ct. 738 (2005), which applied the rule of Blakely v. Washington, 124 S. Ct. 2531 (2004) to the Sentencing Reform Act it is clear that the motion must be denied because Booker is not

retroactively applied. See Lloyd v. United States, 407 F.3d 608 (3d Cir. 2005) which held, among other things, that “Booker does not apply retroactively to initial motions under § 2255 where the judgment was final as of January 12, 2005, the date Booker issued.”

As has been stated earlier the judgment of sentence in the present case became final April 21, 2003. We will therefore dismiss the motion and enter the following Order.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	CIVIL ACTION
	:	NO. 05-3455
vs.	:	
	:	CRIMINAL ACTION
NAFIS WOODS	:	NO. 00-273-02

ORDER

AND NOW, this 19th day of October, 2005, upon a review of the petition for writ of habeas corpus and the response thereto filed by the government, it is hereby **ORDERED** that:

1. The petition for writ of habeas corpus is **DENIED WITH PREJUDICE**.
2. There is no probable cause to issue a certificate of appealability.
3. The Clerk shall mark this case closed for statistical purposes.

BY THE COURT:

/s/ Robert F. Kelly
ROBERT F. KELLY
SENIOR JUDGE