

FILED

United States Court of Appeals  
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

November 1, 2013

Elisabeth A. Shumaker  
Clerk of Court

In re:

EFRAIN RIVERA-CARRERA,

Movant.

No. 13-8085  
(D.C. Nos. 2:07-CR-00204-ABJ-4 &  
2:11-CV-00265-ABJ)  
(D. Wyo.)

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**ORDER**

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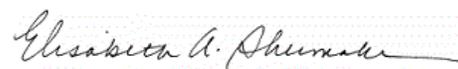
Before **BRISCOE**, Chief Judge, **EBEL** and **MATHESON**, Circuit Judges.

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Efrain Rivera-Carrera moves for authorization to file a second or successive 28 U.S.C. § 2255 motion. For authorization, he must make a prima facie showing that his claims satisfy at least one of the subsections of § 2255(h). In light of his reliance on *Alleyne v. United States*, 133 S. Ct. 2151 (2013), the relevant subsection is § 2255(h)(2), which allows authorization of a claim based on “a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.” This court has already held, however, that *Alleyne* does not satisfy § 2255(h)(2) because the Supreme Court has not made the holding retroactive to cases on collateral review. *See In re Payne*, \_\_\_ F.3d \_\_\_, 2013 WL 5200425, at \*1-\*2 (10th Cir. Sept. 17, 2013).

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", written in black ink on a white background.

ELISABETH A. SHUMAKER, Clerk