

United States Court of Appeals

**For the Seventh Circuit
Chicago, Illinois 60604**

Submitted March 10, 2005

Decided March 28, 2005

Before

Hon. FRANK H. EASTERBROOK, *Circuit Judge*

Hon. KENNETH F. RIPPLE, *Circuit Judge*

Hon. TERENCE T. EVANS, *Circuit Judge*

No. 05-1606

RAMON F. CASTELLANOS,
Applicant,

v.

On Motion for an Order Authorizing
the District Court to Entertain a
Second or Successive Motion for
Collateral Review

UNITED STATES OF AMERICA,
Respondent.

O R D E R

Ramon Castellanos has filed his third application pursuant to 28 U.S.C. § 2244(b)(3) for an order authorizing the district court to consider a second or successive motion under 28 U.S.C. § 2255. *See* No. 04-3394 (7th Cir. Sept. 20, 2004) (dismissing application because proposed claim under *Blakely v. Washington*, 124 S. Ct. 2531 (2004), was premature); No. 00-3241 (7th Cir. Sept. 29, 2000) (denying in part and dismissing in part application proposing a claim under *Apprendi v. New Jersey*, 530 U.S. 466 (2000)). Castellanos now renews his proposed *Blakely* claim and adds a citation to *United States v. Booker*, 125 S. Ct. 738 (2005). *Booker* does not make the *Blakely* rule retroactive, and in fact does not announce whether its new rule applying *Blakely* to the sentencing guidelines is itself applicable to cases on collateral review under § 2255 ¶8(2). The proposed claim is premature. *Simpson v. United States*, 376 F.3d 679 (7th Cir. 2004).

Accordingly, we **DISMISS** without prejudice Castellanos' application for leave to commence a successive collateral attack. He may renew the application if

the Supreme Court makes the *Booker* rule retroactive.