

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

RONRICUEZ BERNARD PAYNE,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 2:09cv1040-MHT
)	(WO)
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER

After review of the pleadings and record in this case, the court has determined that, pursuant to Rule 8, *Rules Governing Section 2255 Proceedings for the United States District Court*, an evidentiary hearing is necessary to resolve Ronricuez Bernard Payne’s claim in his 28 U.S.C. § 2255 motion that his trial counsel rendered ineffective assistance by failing to file a direct appeal on his behalf after he requested that counsel do so. The court’s records reflect that on November 15, 20011 (Doc. Nos. 13 & 14) attorney Susan G. James filed a notice of appearance on behalf of Payne in this action. Accordingly, it is

ORDERED as follows:

1. Payne’s counsel, Ms. James, shall proceed to confer with Payne and otherwise make an appropriate investigation concerning the issue set for an evidentiary hearing.
2. An evidentiary hearing is scheduled for **December 20, 2011 at 10 a.m.**, in courtroom 5-A, Frank M. Johnson, Jr. United States

Courthouse Complex, One Church Street, Montgomery, Alabama. **The court will not entertain any motions to continue this date.** The Clerk is DIRECTED to provide a court reporter for this proceeding.

3. Payne shall be brought to this district not less than a week in advance of the scheduled evidentiary hearing in order to facilitate communications with his counsel in preparation for the hearing.
4. Ms. James and counsel for the United States shall exchange, and file with the court, lists of witnesses and exhibits not later than **December 13, 2011**. All exhibits shall be pre-marked using the same numbers indicated on the exhibit lists, and each party shall deliver to the courtroom deputy prior to commencement of the hearing the original, pre-marked exhibits along with a copy of the exhibits for use by the court.
5. The Clerk is DIRECTED to serve this order upon attorney Susan G. James and to make the case file available as reasonably requested.

Done this 17th day of November, 2011.

/s/ Wallace Capel, Jr.
WALLACE CAPEL, JR.
UNITED STATES MAGISTRATE JUDGE