

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

LORENZO RAINER,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 2:11cv414-MEF
)	(WO)
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER

Pursuant to the orders of this court, the United States has filed a supplemental response (Doc. No. 27) addressing the claims presented by the petitioner in the amended 28 U.S.C. § 2255 motion. In its supplemental response, the government contends that the petitioner’s claim of a denial of due process based on the trial court’s failure to instruct the jury regarding electronic conversations is meritless. The government likewise argues that the petitioner is not entitled to relief based on his claim that his appellate counsel was ineffective for failing to raise an issue concerning the absence of a jury instruction regarding electronic conversations. The government next argues that there is no merit to the petitioner’s claim that his trial counsel was ineffective for failing to move for a judgment of acquittal, because counsel did in fact move for a judgment of acquittal. Finally, the government argues that the petitioner’s claim that his trial counsel was ineffective for “tricking him” into waiving his right to testify is without factual support and rests on allegations that fail to establish deficient performance and prejudice, as required by

Strickland v. Washington, 466 U.S. 668 (1984).

Accordingly, it is

ORDERED that on or before November 22, 2011, the petitioner may file a reply to the supplemental response filed by the United States. Any documents or evidence filed after this date will not be considered by the court except upon a showing of exceptional circumstances. At any time after November 22, 2011, the court shall “determine whether an evidentiary hearing is required. If it appears that an evidentiary hearing is not required, the [court] shall make such disposition of the motion as justice dictates.” Rule 8(a), *Rules Governing Section 2255 Proceedings in the United States District Courts*

Done this 1st day of November, 2011.

/s/ Susan Russ Walker
SUSAN RUSS WALKER
CHIEF UNITED STATES MAGISTRATE JUDGE