

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

JUDSON MARSHALL COX, )  
Petitioner, )  
v. ) Civil Action No. 3:09cv448-WKW  
UNITED STATES OF AMERICA, ) (WO)  
Respondent. )

**O R D E R**

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 required for resolution of the following issues presented in petitioner Judson Marshall Cox's 28 U.S.C. § 2255 motion:

- (1) Cox's claim that his counsel rendered ineffective assistance by failing to file a direct appeal on his behalf after he requested that counsel do so; and
- (2) whether Cox's counsel sought and obtained Cox's knowing and voluntary concurrence in maintaining his guilty plea after Cox's sentencing range was determined to be higher than originally anticipated by the parties.

The court finds that Cox, who is currently incarcerated, is eligible for the appointment of counsel under the Criminal Justice Act, 18 U.S.C. § 3006A. Accordingly, it is

ORDERED as follows:

1. The Federal Defender for the Middle District of Alabama is hereby appointed to represent Cox on the above-mentioned issues set for an evidentiary hearing.
2. Pursuant to this appointment and limited purpose, counsel shall proceed to confer with Cox and otherwise make an appropriate investigation concerning these issues.
3. An evidentiary hearing is scheduled for **May 9, 2011, at 10:00 a.m.**, in courtroom 5-A, Frank M. Johnson, Jr. United States Courthouse Complex, One Church Street, Montgomery, Alabama. The Clerk is DIRECTED to provide a court reporter for this proceeding.
4. Cox shall be brought to this district not less than a week in advance of the scheduled evidentiary hearing in order to facilitate communications with appointed counsel in preparation for the hearing.
5. Counsel for Cox and counsel for the United States shall exchange, and file with the court, lists of witnesses and exhibits not later than **April 29, 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.

6. The Clerk is DIRECTED to serve this order upon the Federal Defender for the Middle District of Alabama and to make the case file available as reasonably requested.

Done this 30th day of March, 2011.

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