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AUG - 3 2011

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF COLUMBIA

TIMOTHY ADAMS, [#] 42380-019
AD.B. 420
F.C.I. FAIRTON
FAIRTON, N.J. 08320 Plaintiff,
v.

Case: 1:11-cv-01395
Assigned To : Unassigned
Assign. Date : 8/3/2011
Description: FOIA/Privacy Act

U.S. ATTORNEY'S OFFICE, ET AL.

Respondent.

ACTION UNDER THE PRIVACY ACT, 5 U.S.C.S. §
522(a)

NOW COMES, Timothy Adams (Adams), pro se requesting relief pursuant to privacy Act, 5 U.S.C. § 552(a), that the affidavit's submitted by the United States Attorney's office be amended to correct the false and inaccurate statements in the affidavits submitted during plaintiff's § 2255 and Rule 60(b) proceedings. Further, any relief seeking injunction or writ of mandamus.

RECEIVED

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STATEMENT OF CASE

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

On December 1, 1994, the Office of the United States Attorney for the Middle district of North Carolina filed a

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superseeding indictment charging Adams with conspiracy to distribute and to possess with intent to distribute cocaine base from late 1989 to November 1994. name as coconspirators were Patrick Harvey and Tyrone Smith.

On April 10, 1995, Adams stood trial before the Honorable N Carlton Tilley, jr., on April 13, 1995, a jury convicted Adams.

On August 2, 1995, Adams was sentenced to LIFE imprisonment. He was also sentenced to ten (10) years supervised release and directed to pay a special assessment of \$50.00

Adams filed a timely notice of appeal. On December 17, 1996, the court of Appeals affirmed. UNITED STATES v. ADAMS, 117 S.Ct. 1448 (Men).

On November 26, 1997, Adams filed a pro se motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255 ("2255"). The Government conceded in its response to the § 2255 motion that it was timely filed. Id., fn.1.

The pro se § 2255 motion raised a claim that; (1) defense counsel was ineffective for failing to disclose a conflict of interest. Adams claimed that his attorney, Alexander, had represented Velvet Jeter ("Ms. Jeter"), " a woman who met with the agents prosecuting my case, and gave a statement against the conspiracy for which I stood trial >" Adams claimed that attorney failed to "adequately cross examine at least one witness because of this conflict."

On January 26, 1998, the Government filed a response opposing the § 2255 motion. Attached to the response was an affidavit from defense counsel.

Adams filed a reply to the Government's Response on May 11, 1998.

On August 24, 1998, the United States magistrate Judge filed a Report and Recommendation that the § 2255 motion be summarily denied and dismissed.

On September 11, 1998, Adams filed objections to the Report and recommendation. At the same time Adams filed a Motion to Expand the Record with the Affidavit of Counsel's Former Client (Ms. Jeter), and a motion for Evidentiary Hearing.

On January 27, 1999, the District court entered an Order denying Adams' motion to expand the record, denying an evidentiary hearing as moot, denying the § 2255 motion and denying a certificate of appealability. A judgment was filed on January 27, 1999.

Adams filed a timely notice of appeals of the January 27, 1999 final judgment. A certificate of appealability was denied and the appeal was dismissed on June 24, 1999. UNITED STATES v. ADAMS, 182 F.3d 910 (4th Cir.1999) (Table). On November 2, 1999, Adams filed a motion to Amend the pleadings.

On May 15, 2000, Adams filed a motion to set a hearing.

On September 27, 2000, Adams filed a Motion for writ of mandamus.

On November 1, 2000, an order was entered denying the Motion to Amend the Pleadings denying the motion for judgment, denying the motion to take Judicial notice and denying the Motion to set a hearing.

On December 9, 2000, the district court entered an Order denying the motion for relief from judgment pursuant to Rule 60(b) F.R.Civ.P. Adams appealed and the Fourth Circuit affirmed. UNITED STATES v. ADAMS, 01-6062 (4th Cir. 2001) (Table).

On January 4, 2001, a pro se motion for "reconsideration to alter or amend judgment and motion to make findings and to amend judgment." On April 24, 2001 Judge Tilley denied that motion.

Adams filed a notice of appeal of the April 24, 2001 Order. The Court of Appeals affirmed the decision.

On December 10, 2001, a pro se motion for relief from judgment pursuant to Rule 60(b), F.R.Civ. P was docketed. Adams also filed a motion to amend the pleadings on December 17, 2001.

The Government filed a Response that was docket on January 17, 2002.

Adams submitted a Reply to the Government's response on February 4, 2002.

A Magistrates's Report and recommendation was filed on July 2, 2002. The Magistrate Judge recommended that Adams' motion to Amend be denied without prejudice and that the Motion for relief from judgement pursuant to Rule 60(b), F.R.civ.P. be denied.

On July 15, 2002 Adams filed objections to the report and Recommendation.

On October 21, 2002 a judgement and order were entered denying the Rule 60(b) Motion, dismissing the action and denying an application for certificate of appealability.

2002,
On November 4, ~~2020~~, Adams filed a motion to alter or amend judgement pursuant to Rule 59(e), F.R.civ.P.

On July 13, 2004, the Fourth Circuit dismissed. However, in all of the above mention filing's and previously filing's, the District Court never addressed the central question of whether the affidavit submitted by the United States attorney's office opposing the § 2255 motion was false. See INDEPENDENT ACTION FOR FRAUD UPON THE COURT WITH SUPPORTING EXIHBITS FROM A-TO-G, ATTACHED HERETO.

REASON FOR THIS PRIVACY ACT

The privacy act permits a suit for damages if an agency's violation of § 522a(g)(1)(c), (g)(4). The act also gives an individual the right to request AMENDMENT of his records. 5 U.S.C. § 5521(d).

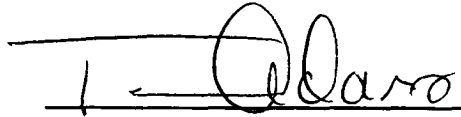
Adams alleges that the United States Attorney's Office submitted inaccurate factual false affidavits opposing plaintiff's § 2255 and Rule 60(b) proceedings causing ADVERSE DETERMINATIONS of those proceedings. See INDEPENDENT ACTION FOR FRAUD UPON THE COURT.

WHEREFORE, Adams request that the affidavits submitted by the united states be amended or Injunction or mandamus relief seeking the united States to correct the false and inaccurate factual statements in the affidavit's submitted during plaintiff's § 2255 and Rule 60(b) proceedings and any and everything this court or agency deems fair and proper.

VERIFICATION

I, Timothy Adams, litigant-plaintiff, being duly sworn deposes and says that the facts, averments or denials, set forth in the foregoing Complaint in this action are true and correct to the best of my personal knowledge, information and/or belief.

I certify under the pains and penalties of perjury pursuant to 28 U.S.C. § 1746(2) that the foregoing is true and correct.

A handwritten signature in black ink, appearing to read "Timothy Adams", is written over a horizontal line.

Timothy Adams

Reg. No. 42380-019

FCI Fairton

P. O. Box 420

Fairton, NJ 08320

CERITIFICATE OF SERVICE

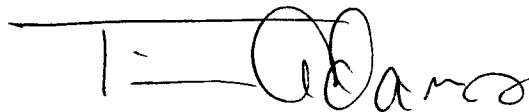
The undersigned hereby certifies that on this date a copy of the foregoing plaintiff's suit/mandamus injunction was served upon the defendant, by depositing a copy thereof in the United States mail, sufficient first class postage, pre-paid, address as follow:

Attorney General's office
10th & Constitutional Ave. NW.
Washinton, D.C. 20530.

Harry L Hobgood
A.u.s.a. Office
p.o. box 1858
Greensboro, NC - 27402
United States

Executive office for the United States
Attorney's FOIA/ Privacy staff
Department Of Justice Room 7300
600 E street, N.W.
Washington D.C. 20530-0001.

Dated: 6-13-11

A handwritten signature in black ink, appearing to read "Timothy Adams". The signature is written over a horizontal line.

Timothy Adams Pro se

(ATTACHMENT-A)

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
GREENSBORO DIVISION

IN RE: TIMOTHY ADAMS,	:	Civil Case No.
Plaintiff,	:	Civil No. 1:97CV01225
v.	:	Criminal No. 6:94CR302-3
UNITED STATES OF AMERICA,	:	
Defendant.	:	

INDEPENDENT ACTION FOR FRAUD UPON THE COURT

Plaintiff, Timothy Adams, ("Adams"), pro se,
respectfully prays that this Court grants this independent
action...To set aside a judgment for Fraud Upon The Court.
HAZEL ATLAS GLASS CO., v. HARTFORD EMPIRE CO., 322 U.S. 238,
249-50, 88 L.Ed 1250, 64 S.Ct. 997 (1944) - Because the power
to vacate a judgment for Fraud Upon The Court is so free from
procedural limitations, it "is limited to Fraud that seriously
affects the integrity of the normal process of adjudication,"
12 James WM. ¶ 60.2 [4] [A] (3d. 3d. 1999). For example, Fraud
Upon The Court includes Fraud by an officer of the Court,
including an attorney. See id. at ¶60.21 [4] [A], [b].

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I. PRELIMINARY STATEMENT

This is a titled, Independent Action Complaint, pursuant to HAZEL ATLAS GLASS CO. v. HARTFORD EMPIRE CO., supra, filed by Adams, a federal prisoner, who is currently incarcerated at Federal Correctional Institution (FCI) Fairton, P.O. Box 420, Fairton, New Jersey 08320.

Attorney Charles J. Alexander ("Alexander"), at all times relevant to the events described in this complaint was employed by Morrow, Tash, Alexander, as an Officer of the Court and/or is licensed to practice law in the Middle District of North Carolina.

The United States Attorney's Office, at all times relevant to the events described in this complaint, was employed by the United States of America at the United States Attorney's office in the Middle District of North Carolina, Greensboro Division.

The United States Attorney's office is a unit of the United States Government, organized pursuant to the laws of the United States. Upon information and belief, at all times relevant herein, it was the employer of the United States Attorney.

STATEMENT OF THE CASE

On December 1, 1994, the Office of the United States Attorney for the Middle District of North Carolina filed a superseding indictment charging Adams with conspiracy to distribute and to possess with intent to distribute cocaine base from late 1989 to November 1994. Named as conspirators were Patrick "PZ" Harvey and Tyrone "Fly Ty" Smith.

On April 10, 1995, Adams stood trial before the Honorable N Carlton Tilley, Jr., on April 13, 1995, a jury convicted Adams.

On August 2, 1995, Adams was sentenced to LIFE imprisonment. He was also sentenced to ten (10) years supervised release and directed to pay a special assessment of \$50.00.

Adams filed a timely notice of appeal. He raised the following issues on appeal: (1) insufficient evidence; (2) evidence was erroneously admitted; (3) the statute and the guidelines employed were unconstitutional; (4) the sentence violated Adams' Eight Amendment right to be free from cruel and unusual punishment.

On December 17, 1996, the Court of Appeals affirmed. UNITED STATES v. ADAMS, 103 F.3d 120 (4th Cir. 1996) (Table).

In February 1997, the Supreme Court denied certiorari. ADAMS v. UNITED STATES, 117 S.Ct. 1448 (Mem).

On November 26, 1997, Adams filed a pro se motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. §

2255 ("2255"). The Government conceded in its response to the § 2255 motion that it was timely filed. *Id.*, fn. 1.

The pro se § 2255 motion raised the following claims; (1) defense counsel was ineffective for failing to disclose a conflict of interest. Adams claimed that his attorney, Alexander, had represented Velvet Jeter ("Ms. Jeter"), "a woman who met with the agents prosecuting my case, and gave a statement against the conspiracy for which I stood trial." Adams claimed that attorney Alexander failed to "adequately cross examine at least one witness because of this conflict."; (2) counsel was ineffective for not conducting an adequate pretrial investigation; failing to properly cross examine witnesses; not calling witnesses; not objecting to sentencing errors; advising Adams not to testify; and other errors; (3) prosecutorial misconduct for permitting witnesses to give false testimony; failing to disclose impeachment information and failing to report negotiations with Adams' attorney that were against Adams' interest.

On January 26, 1998, the Government filed a response opposing the § 2255 motion. Attached to the Response was an affidavit from defense counsel.

Adams filed a reply to the Government's Response on May 11, 1998.

On August 24, 1998, the United States Magistrate Judge filed a Report and Recommendation recommending that the § 2255 motion be summarily denied and dismissed.

On September 11, 1998, Adams filed objections to the Report and recommendation. At the same time Adams filed a

Motion to Expand the Record with the Affidavit of Counsel's Former Client (Ms. Jeter), and a Motion for Evidentiary Hearing.

On January 27, 1999, the District Court entered an Order denying Adams' motion to expand the record, denying an evidentiary hearing as moot, denying the § 2255 motion and denying a certificate of appealability. A judgment was filed on January 27, 1999.

Adams filed a timely notice of appeal of the January 27, 1999 final judgment. A certificate of appealability was denied and the appeal was dismissed on June 24, 1999. UNITED STATES v. ADAMS, 182 F.3d 910 (4th Cir. 1999) (Table). On November 2, 1999, Adams filed a motion pursuant to Rule 60(b), Federal Rules of Civil Procedure.

On January 14, 2000, Adams filed a Motion to Amend the Pleadings.

On May 15, 2000, Adams filed a motion to take judicial notice.

On August 22, 2000, Adams filed a Motion to set a hearing.

On September 27, 2000, Adams filed a Motion for a writ of mandamus.

On November 1, 2000, an Order was entered denying the Motion to Amend the Pleadings denying the Motion for Judgment, denying the Motion to Take judicial Notice and denying the Motion to Set a Hearing.

On December 19, 2000, the district court entered an Order denying the motion for relief from judgment pursuant

to Rule 60(b) F.R.Civ.P. Adams appealed and the Fourth Circuit affirmed. UNITED STATES v. ADAMS, 01-6062 (4th Cir. 2001) (Table).

On January 4, 2001, a pro se motion for "reconsideration to alter or amend judgment and motion to make findings and to amend judgment." On April 24, 2001, Judge Tilley denied that motion.

Adams filed a notice of appeal of the April 24, 2001 Order. The Court of Appeals affirmed the decision.

On December 10, 2001, a pro se motion for relief from judgment pursuant to Rule 60(b), F.R.Civ.P. was docketed. Adams also filed a motion to amend the pleadings on December 17, 2001.

The Government filed a Response that was docketed on January 17, 2002.

Adams submitted a Reply to the Government's Response on February 4 2002.

A Magistrate's Report and recommendation was filed on July 2, 2002. The Magistrate Judge recommended that Adams' Motion to Amend be denied without prejudice and that the Motion for relief from judgment pursuant to Rule 60(b), F.R.Civ.P. be denied.

On July 15, 2002, Adams filed objections to the Report and Recommendation.

On October 21, 2002, a Judgment and an Order were entered denying the Rule 60(b) Motion, dismissing the action and denying an application for certificate of appealability.

On November 4, 2002, Adams filed a Motion to Alter or

Amend Judgment pursuant to Rule 59(e), F.R.Civ.P.

On February 3, 2003, the district court entered an Order on denying the Rule 59(e) motion.

On July 13, 2004, the Fourth Circuit dismissed. However, in denying plaintiff's Rule 60(b) relief, the District Court never addressed the central question necessarily to his claim of Fraud Upon the Court.

REASON FOR GRANTING INDEPENDENT ACTION

This pro se plaintiff respectfully petitions the Honorable Court to grant this Independent action, to set aside his § 2255 judgment. The Court did not appear to have discussed to what extent, if any, the principle that Fraud upon the Court must be alleged with particularity may be inconsistent with the principle that relief from a judgment on the ground of Fraud Upon the Court may be granted by a court on its own motion.

As an initial matter, this court must recognize the well-established principle that a prisoner proceeding in a pro se capacity is entitled to have his pleadings, and the evidence in support, liberally construed. *HAINES v. KERNER*, 404 U.S. 519 30 L.Ed.2d, 92 S.Ct. 594 652(1972). This liberal construction principle has been recognized by federal Courts repeatedly. See e.g., *CRUZ v. GOMEZ*, 202 F.3d 593, 597 (2nd Cir. 1999) (recognizing that Court must construe pro se pleading broadly, interpreting them to raise the strongest

argument they suggest); GORDON v. LEEKE, 547 F.2d 1147 (4th Cir. 1978) cert. denied 434 U.S. 970 (1978) (Pro se litigant with otherwise meritorious claims should not be defeated by failure to observe technical niceties).

A liberal construction of Adams' pleadings should have alerted the District Court that his claim was not grounded on "newly discovered evidence" or "fraud"; but was premised on the fraud on the court principle in this court's HAZEL-ATLAS decision.

In HAZEL-ATLAS, this Court held that fraud on the Court occurred when the defendant prepared and arranged for publication in a trade journal a favorable article signed, but not actually written by, an independent expert. *Id.* at p. 250. Thus, the court found the defendant had engaged in an elaborate scheme to defraud the Patent Office and the third circuit emphasized that the article was effective in that the defendant obtained a patent and prevailed on appeal. The Court stated, "[t]he article, even if true, should have stood or fallen under the only title it could have honestly has been given--that of a brief in behalf of Hartford prepared by Hartford's Agents, Attorneys, and Collaborates." *Id.* at p. 247.

In this case, this Court should find HAZEL-ATLAS instructive because of the egregious conduct of this former trial attorney in fabrication and providing the Government with a misleading and fraudulent affidavit. This is not only because Adams has demonstrately showed that the Attorney's affidavit submitted to the Court in the § 2255 proceedings was

indeed an "unconscionable scheme" perpetrated by an officer of the Court; but more importantly, that the reliance of the affidavit in denying Adams' Motion as "meritless". Moreover, both Ms. Jeter's affidavit and her State Court records-- demonstrating that Adams' former trial attorney did represent her clearly and convincingly should prompt a full inquiry as to whether Fraud Upon the Court was committed in this matter. (See Appendix "A" through "G"). Especially since, "[f]raud on the Court occurs, for the purpose of action for relief from judgment, when it can be demonstrated, clearly and convincingly, that a party has sentiently set in motion some unconscionable scheme calculated to interfere with the Judicial System's ability impartially to adjudicate a matter." PEARSON v. FIRST NH MORTGAGE CORP., 200 F.3d 30, 37 (1st Cir. 1999) (quoted in FERNANDEZ v. LEONARD, 963 F.2d 459 (1st Cir. 1992)); see also, KUPFERMAN v. CONSOLIDATION RESEARCH M., 459 F.3d 1072, 1078 (2nd Cir. 1972) (stating attorneys are Officer of the Court and their conduct, if dishonest would constitute Fraud on the Court).

Particularly, Adams' former trial attorney's affidavit averred that he did not represent Ms. Jeter in a related state criminal court proceeding. However, a liberal review of the documents appended hereto, supports a finding by this Honorable Court to grant relief, and resolve the question concerning petitioner's Fraud on the Court claim.

In Adams' § 2255 proceeding, he alleged that his former trial attorney labored under a conflict of interest in violation of the Sixth Amendment, among other things.

However, the Government countered this allegation by obtaining an affidavit from Adams' trial counsel, and submitted it in the § 2255 proceedings in support of its position that Adams was not entitled to collateral relief. The matter was reviewed by a Magistrate Judge who issued a recommendation that Adams' conflict claim be denied relying on counsel's affidavit.

In the recommendation, the Magistrate Judge stated:

"[T]he prior representation of Ms. Jeter occurred in a separate trial, by a former associate in counsel's law firm, who did not actually participate in the defense....[T]he relationship between any representation of Ms. Jeter and the issues raised at petitioner's trial was so attenuated that no adverse effect was possible. Although, counsel admits that Ms. Jeter was represented by a former associate of the firm, he cannot recall....that she ever produced any information implicating petitioner. He further avers that Ms. Jeter was not a witness against Petitioner, and that her case has nothing to do with a conspiracy." (See Appendix "B")

The evidence submitted in Adams' Independent Action for relief from the § 2255 judgment clearly eliminates the magistrate's finding that his former trial attorney did represent Ms. Jeter. Secondly, as to the conflict of interest issue, counsel's representation of Ms. Jeter had nothing to do

with whether she provided any evidence against Adams or was a witness against him in his federal criminal case is unreasonable. However, because a conflict arises from both simultaneous and successive representation, this reasoning by the magistrate did not fully consider the detrimental effect caused by counsel's representation of both plaintiff and Ms. Jeter.

Specifically, Ms. Jeter's home was searched on November 7, 1994 by police after they stopped a vehicle driven by Adams' co-defendant, Patrick Harvey, in High Point, North Carolina and registered in her name. (See Appendix "C"). Plaintiff was subsequently named in a superseding indictment on January 31, 1995, along with Patrick Harvey for conspiring to distribute drugs in violation of 21 U.S.C. § 846.

Consequently, on the heels of Adams' conviction in federal court, Ms. Jeter's state case was dismissed for cooperating with federal authorities. (See Appendix "D"). More importantly this dismissal was orchestrated by Ms. Jeter's attorney, Alexander, the same attorney that represent plaintiff in his federal trial, who informed Ms. Jeter to speak with Drug Enforcement Agency ("DEA") agent Cynthia Wilcox. This DEA agent testified at Adams' trial, and was cross-examined by attorney Alexander.

In the context of Adams conflict of interest claim that attorney Alexander's representation of both Adams and Ms. Jeter actively represented conflicting interest. Furthermore, this conflict of interest affected the attorney's performance in representing Adams and prevented counsel from conducting

rigorous cross examination of the DEA agent. See CUYLER v. SULLIVAN, 446 U.S. 335, 348, 64 L.Ed.2d 333, 100 S.Ct. 1708 (1980).

Although, Adams did not obtain the additional state court record until he appealed the denial of his § 2255 relief, he attempted to place them before the Court on appeal. Consequently, the Appellate Court denied Adams' relief to reopen the § 2255 judgment, which is the basis for this Independent Action petition.

The Supreme Court has observed that a federal court has the inherent power to vacate a judgment on proof that a Fraud upon the Court has been committed even though the term "Fraud on the Court" is a nebulous concept that should be read narrowly in order to preserve the finality of a Court's judgment. See CHAMBERS v. NASCO, INC., 501 U.S. 32, 43, 115 L.Ed.2d 27, 111 S.Ct. 2123 (1991).

However, in this case, the question remains unanswered as to whether a Fraud on the Court has been committed because of Adams' former trial attorney's misleading and fraudulent affidavit. Thus, this Court should find that the substantial evidence presented does not warrant preserving the finality of Adams' § 2255 judgment and fits within the nebulous concept "of fraud on the court must prove the fraud by clear and convincing evidence." SHEPARD v. AMER. BROADCASTING CO., INC., 62 Fd.3d 1469, 1477 (D.C. Cir. 1995) (citing ERVIN v. WILKINSON, 701 F.2d 59, 61 (7th Cir. 1983); See also, 11 Charles A. Wright § Arthur R. Miller, Federal Practice § Procedure: Civil § 2860 at p. 189 (1973 & Supp. 1994-95).

Moreover, it has long been recognized that equitable relief from a final judgment has traditionally been granted in cases where an attorney fraudulently connives to defeat an otherwise meritorious claim or corruptly sells out a former client's interest. See U.S. V. THROCKMORTON, 98 U.S. 61, 66, 25 L.Ed. 93 (1878).

Thus, the District Court in this Independent Action should view the attorney's affidavit as perjurious because at the time Adams' former trial attorney made the affidavit, he must have been aware that he represented Ms. Jeter, as reflected in the State Court's records, all of which bears Adams' former trial attorney's signature as the attorney of record in Ms. Jeter's case. Therefore, this perjurious conduct easily transforms into a fraud on the Court claim since the attorney's affidavit suborned perjury and was the catalysis for Adams' being denied relief of his conflict of interest claim. See DEMOLITION CO. INC. v. AZCON SCRAP CORP., 827 F.2d 984, 987 (4th Cir. 1987); WORKMAN v. BELL, 227 F.3d 31, 341 (6th Cir. 2000) (stating an element of fraud on the Court is that the conduct must involve an Officer of the Court).

The attorney's false representation in the affidavit he provided the Government in Adams' § 2255 proceeding clearly warranted relief from judgment because the evidence presented does not have to necessarily alter the § 2255 results to reopen the judgment due to the fraud committed on the court in this case. See SCHULTZ v. BUTLER, 24 F.3d 626 (4th Cir. 1994). Nor does the alleged lack of diligence by

Adams in submitting the substantial evidence evidence justify denial of relief. See HAZEL-ATLAS, at p. 246.

In fact, as the HAZEL-ATLAS Court recognized "tampering with the administration of justice in the manner indisputably shown here involves far more than an injury to a simple litigant [i]t is wrong against the institution set up to protect and safeguard institutions in which fraud cannot complacently be tolerated consistently with the good order of society." Id. Thus, the improper influence exerted by the attorney's fraudulent affidavit essentially drove a stake through the heart of the court's integrity, and this court's failure to correct such a grave error directly questions its ability ability to function impartially. See GREAT COSTAL EXP. v. INT'L BROTH., ETC., 675 F.2d 1349, 156, (4th Cir. 1982).

Since the Court has not acknowledged, or even ruled, on whether Adams trial attorney's affidavit constituted fraud on the court, he cannot be said to have been given "a full and fair opportunity to litigate" the issue. This is because without a direct ruling on this issue, Adams is hampered from demonstrating how the fraud committed on the court, not only undermined the integrity of the judicial process, but more importantly, how it affected his fair trial proceedings as a whole.

In recognizing this truth, the Government has engaged in a meaningless defense geared at further preventing Adams from having his Fraud on the Court issue squarely heard once and for all. This is evident from the fact that the

Government has not once, during the life of these proceedings, asserted or argued that the evidence submitted by Adams has not substantially demonstrated that the affidavit it provided to the Court from the attorney in the § 2255 proceedings was indeed fraudulent. Moreover, as demonstrated in the Government's response, it has not put forth one justifiable reason for not finally reaching the merits of Adams, pro se, Fraud on the Court issue besides causing him to jump through meaningless procedural hoops.

Premises considered and liberally construed under the principle announced in *HAINES v. KERNER*, supra, this Honorable court should grant independent review on the Fraud upon the court committed by Adams' former trial attorney's misleading and fraudulent affidavit and set aside the § 2255 proceedings.

PUBLICKER v. SHALLCROSS, 106 F.3d 949 (3rd Cir. 1939) ("[T]ruth is more important than the trouble it takes to get to it."). A bench trial is in order.

CONCLUSION

Plaintiff Adams prays that this Court set aside the January 27, 1999 Judgment as respectfully requested in this Independent Action.

Respectfully submitted,

Timothy Adams
Reg. No. 42380-019
FCI Fairton
P. O. Box 420
Fairton, NJ 08320

Dated: January ____, 2009.

VERIFICATION

I, Timothy Adams, litigant-plaintiff, being duly sworn deposes and says that the facts, averments or denials, set forth in the foregoing Complaint in this action are true and correct to the best of my personal knowledge, information and/or belief.

I certify under the pains and penalties of perjury pursuant to 28 U.S.C. § 1746(2) that the foregoing is true and correct.

Timothy Adams
Reg. No. 42380-019
FCI Fairton
P. O. Box 420
Fairton, NJ 08320

Dated: January ____, 2009.

EXHIBIT

"A"

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
GREENSBORO DIVISION

TIMOTHY ADAMS,)
)
 Petitioner,)
)
 v.)
)
UNITED STATES OF AMERICA,)
)
 Respondent.)

No. 1:97CVO1225
6:94CR302-3

AFFIDAVIT

In response to Section 2255 Motion, now comes your Affiant, who being first duly sworn, deposes and says:

That I represented the above-captioned individual in the charges lodged against him case No. 6:94CR302-3, in the Middle District of North Carolina.

The defendant has alleged in his 2255 Motion that there exists a conflict, in that, our firm had represented an individual named Velvet Jetter, prior to our representation of him. It is true that Ms. Jetter was represented by this firm. This matter was primarily handled by an associate of the firm who is no longer employed; however, I have reviewed the file in this matter, as well as my recollection of same, and do assert that at no time did Ms. Jetter, to my knowledge, ever provide any information in which in any way implicated or even mentioned the defendant-herein. The Jetter case was not Federal in nature, had nothing to do with a conspiracy and her cooperation did not produce any information whatsoever about the defendant, Adams. Ms. Jeter was not a witness in the case against Mr. Adams, nor was she on the Government's witness list.

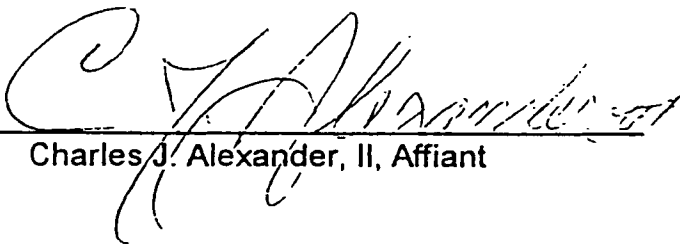


Full discovery was provided to the defendant in this case and there was no information contained in the file which mentioned any statement that Ms. Jetter had made regarding Mr. Adams.

The defendant further alleges that I failed to allow him to view the discovery which was provided to us during the course of our representation of him. This is absolutely untrue. I distinctly remember lengthy discussions with Mr. Adams regarding the evidence and statements contained in the file that would be used against him at trial. He did later make demand upon me for a copy of all statements in the Government's file and we advised him that that would violate the Standing Order of the Court regarding dissemination of those materials.

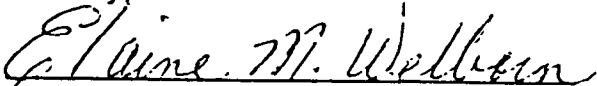
If further information is needed regarding this matter, I would be happy to provide same upon request.

Respectfully submitted, this the 5th day of January, 1998.



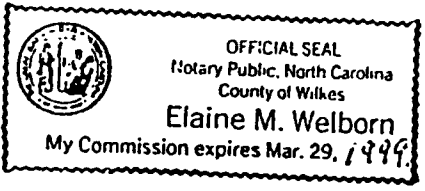
Charles J. Alexander, II, Affiant

SWORN TO and subscribed
before me, this the 5th. day of
January, 1998.



Notary Public

My commission expires: March 29, 1999.



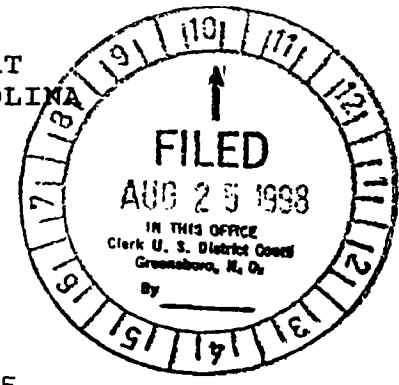
EXHIBIT

"B"

169

D 1

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



TIMOTHY ADAMS,)
a/k/a "Smitt," "Rodney Clark,")
)
Petitioner,)
)
v.)
)
UNITED STATES OF AMERICA,)
)
Respondent.)

1:97CV1225
6:94CR302-3

~~RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE~~

~~Petitioner Timothy Adams, a federal prisoner, has filed a~~
motion to vacate, set aside, or correct sentence pursuant to 28
U.S.C. § 2255. A jury convicted petitioner on one count of a
four-count superseding indictment charging him and two codefendants
with conspiracy to possess with intent to distribute in excess of
50 grams of cocaine base ("crack") and distributing in excess of 50
grams of cocaine base ("crack"), in violation of 21 U.S.C. §§ 846,
841(a)(1), (b)(1)(A). On August 2, 1995, petitioner was sentenced
to life imprisonment. He appealed, and the Fourth Circuit affirmed
the conviction and sentence. United States v. Adams, 103 F.3d 120,
No. 95-5671 (4th Cir. 1996) (unpublished), cert. denied, ___ U.S.
___, 117 S. Ct. 1458, 137 L. Ed. 2d 562 (1997). Petitioner filed
this § 2255 motion on November 26, 1997, setting out four grounds
for relief. The government responded and petitioner replied.

DISCUSSION

Grounds 1 and 2 both set out allegations supporting claims
that petitioner received ineffective assistance of counsel. In
order to prove ineffective assistance of counsel, petitioner must

constitutional rights absent an adverse effect on counsel's performance. Id.

Petitioner's conclusory allegations do not support a finding of adverse effect on counsel's performance.¹ Nearly every one of petitioner's factual allegations in the motion forms are insufficient and conclusory, and should be summarily dismissed. Nickerson, 971 F.2d at 1136. The government responded and fleshes out some missing facts from the context of many of the conclusory allegations. Petitioner, in his reply, apparently then attempts to adopt these missing facts. However, to the extent petitioner attempts thereby to add to his § 2255 motion, the attempt is rejected. United States v. Yearwood, 863 F.2d 6 (4th Cir. 1988).

¹ Because the court finds that there was no adverse effect from any alleged conflict, it need not make findings as to the existence of an actual conflict of interest. Notwithstanding, the finding of lack of adverse effect indicates that there likely was not an actual conflict. United States v. Teter, 943 F.2d 370, 375 (4th Cir. 1991). Where the conflict involves a former client, an actual conflict is not presumed. Rather, to demonstrate an actual conflict involving a former client, petitioner must allege that counsel had a "continuing duty" to the former client that might "interfere with his consideration of all facts and options for his current client." Id. at 376. In Burger v. Kemp, 483 U.S. 776, 783, 107 S. Ct. 3114, 97 L. Ed. 2d 638 (1987), the Supreme Court held that there was no actual conflict of interest in a case where a counsel's partner represented a codefendant in a separate trial for the same murder, and where the strategy in both trials was to argue that the coindictor was more culpable than the defendant. Moreover, the same attorney prepared appellate briefs for both defendants, and that counsel was assisted by his partner, who represented the coindictor, and participated in the conduct of the defense at trial. Id. at 783-785.

In this § 2255 motion, the prior representation of Ms. Jetter occurred in a separate trial, by a former associate in counsel's law firm, who did not actually participate in the defense. Further discussion, infra, reveals that the relationship between any prior representation of Ms. Jetter and the issues raised at petitioner's trial was so attenuated that no adverse effect was possible. This finding would be consistent with a further finding that there was no actual conflict of interest.

present the case.⁴ Therefore, because there could have been no adverse effect from any alleged conflict, the allegations of ineffective assistance of counsel due to a conflict of interest should be dismissed.⁵

Remaining allegations in connection with this ground, that counsel failed to share pretrial disclosure information and failed to cross-examine a witness, are also without merit because they all depend upon the existence of a conflict of interest. They also should be dismissed.

Ground 2. Ineffective Assistance of Counsel.

Petitioner alleges several grounds for ineffective assistance, including: (a) failure to conduct an adequate pretrial investigation; (b) failure to cross-examine witnesses about inconsistent statements; (c) failure to call witnesses; (d) failure to object to sentencing errors; (e) advising petitioner against testifying in his own defense, and then using prior incarceration as a defense. (Docket No. 148)

⁴ In addition, counsel's affidavit, relative to the conflict-of-interest issue, is consistent with the lack of an actual conflict and the absence of an adverse effect on counsel's performance. (Docket No. 155, Ex. B, Aff. of Charles J. Alexander, II) Although counsel admits that Ms. Jetter was represented by a former associate of the firm, he cannot recall or discover after reviewing the case file that she ever provided information implicating petitioner. (Id.) He further avers that Ms. Jetter was not a witness against the petitioner, and that her case had nothing to do with a conspiracy. (Id.) Petitioner fails to show otherwise.

⁵ Furthermore, to cause an adverse effect, petitioner speculates that if Dedrick Fleming were cross-examined regarding Ms. Jetter, and if information incriminating Ms. Jetter were elicited, then the government would have chosen to prosecute. The court may not find an adverse effect based on such a speculative chain of causation. Williams v. French, 146 F.3d 203, 213 (4th Cir. 1998).

EXHIBIT

"C"



Agency-One Investigations, Inc.

J. Lee Foster, President

September 3, 1998

Corporate Headquarters

1332 Ashley Square

Winston-Salem, N C 27103

(336) 760 4000

(800) 557-5500

Fax

(336) 760-4155

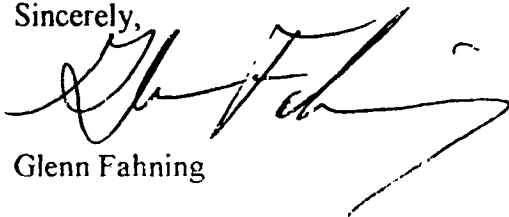
Timothy Adams
PO Box 3000
White Deer, PA 17887

Re: Velvet Jetter

Dear Timothy,

As per our conversation, please find enclosed the Statement that I intend to have Velvet Jetter sign on your behalf.

Sincerely,



Glenn Fahning

Agency-One Investigations, Inc.
Jim Foster, President

Q U A L I T Y

P O S T - C O N V I C T I O N

I N V E S T I G A T I O N

S E R V I C E S

Agency One Investigations, Inc., is a North Carolina firm with vast experience in assisting post-conviction relief efforts. If you are in need of witness locations/interviews, document research, or other expert services, Agency One can help you.

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(910) 760-4000
(800) 557-5500

401-GUILFORD-HP
DISPOSED
INDICTMENT
JETER, VELVET, WASH
1824-KENTUCKY AVE
WINSTON SALEM NC 27101
CHG/ARRN OFFN: F PWISD MARIJUANA
COMPLAINANT: BLANK, J, C
OFFN DATE: 110794 ARRN DATE: 021395 MOTIONS DATE: DISP DATE: 053095
CUNT. D: 00 S: 00 C: 00 NR: 00

INQUIRY 51 94CR5017497 FILM: 9501100189
R S DOB/AGE CHS FILING DATE: 020195
3 F 110949 DL#:
CLIA #:
TRIAL DATE: 053075 AM
DEF ATTY: ALEXANDER, CHARLES TYP: R
99-95(A)
CPD ISSUED: 110894 SERVED: 110894

PLEA VERDICT MOD FINE COSTS REST JUDGE MONYES-PD TO-BE-PAID
VD \$ \$ \$

CONV OFFN:
SENT CEN: SENT TYPE: CONV F/JCMT:
PROB: WITHDRAWN: APPEALED TO SUPERIOR:
AREA CD: ACCD: HWY: LID: TRANS TO SUPERIOR: 013095
CDL: N DMV: N HAZ: N TRF/DIST: V ST: V TYP: APPELLATE:
ARREST DATE: 110894 CHECK DIGIT: J77142G SID: N00630631A LID:
NEXT: PF2 - NAME INQUIRY ADDL CHARGES:

EXHIBIT

"D"

MORROW, ALEXANDER, TASH & LONG

ATTORNEYS AND COUNSELLORS AT LAW

3890 VEST MILL ROAD

WINSTON-SALEM, N. C. 27103-1302

*BOARD CERTIFIED SPECIALISTS

*JOHN F. MORROW
FAMILY LAW

*CHARLES J. ALEXANDER, II
CRIMINAL LAW

*GARY B. TASH
FAMILY LAW

*C. R. "SKIP" LONG, JR.
FAMILY LAW

DANIEL A. LANDIS

MAILING ADDRESS:

POST OFFICE BOX 25226
WINSTON-SALEM, NC 27114-5226

TELEPHONE (910) 760-1400

FACSIMILE (910) 760-4520

March 8, 1995

Clerk of Superior Court
Guilford-HP County
P. O. Box 2434
High Point, N. C. 27261

Re: State v. Velvet Nash Jeter
94 CRS 017497

Dear Ms. Bennington:

Please find enclosed original and two copies of the Motion to Suppress and Affidavit attached to be filed in the above-captioned case. Also enclosed is a self-addressed, stamped envelope for your convenience in returning the filed copies to me. Thank you for your time and cooperation in this matter.

Very truly yours,



Charles J. Alexander, II

CJA,II:ew

Enclosures

cc: District Attorney's Office

NORTH CAROLINA)
GUILFORD-HP COUNTY)

FILED

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
94 CRS 017497

STATE OF NORTH CAROLINA)

VS:

MOTION TO SUPPRESS

VELVET NASH JETER,

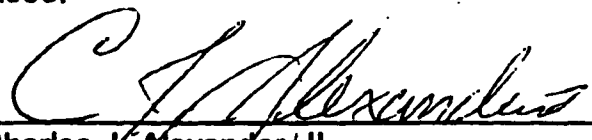
Defendant.

NOW COMES the Defendant, through counsel, and moves the Court for an Order suppressing and excluding evidence obtained in this matter as a result of the search of an apartment at 243-C Northpoint Avenue, High Point, North Carolina on November 7, 1994.

The Defendant is informed and believes and therefore alleges upon information and belief that the exclusion of this evidence is required by the Fourth and Fourteenth Amendments of the Constitution of the United States and the applicable provisions of the Constitution of the State of North Carolina. Further, the Defendant shows unto the Court that the evidence sought to be suppressed was obtained as a result of substantial violation of the provisions of Chapter 15A of the North Carolina General Statutes for reasons more fully set forth in the Defendant's Affidavit which is filed contemporaneously herewith.

WHEREFORE, the Defendant moves the Court for an Order pursuant to North Carolina General Statutes 15A-974 et seq excluding any and all evidence obtained as a result of the illegal search and seizure in this case; that this verified Motion be taken as an affidavit of the Defendant.

This the 8th. day of March, 1995.



Charles J. Alexander, II
Attorney For Defendant

OF COUNSEL:

MORROW, ALEXANDER, TASH & LONG
3890 Vest Mill Road, P. O. Box 25226
Winston-Salem, North Carolina 27114-5226
(910) 760-1400
State Bar No: 0000046

CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for the opposing party or parties in the foregoing matter with a copy of this pleading by depositing in the United States Mail a copy of same in a properly addressed envelope with adequate postage thereon.

This 8th day of March 19 95
By C. J. Alexander II

NORTH CAROLINA)
)
GUILFORD-HP COUNTY)

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
94 CRS 017497

STATE OF NORTH CAROLINA)
)
VS:)
)
VELVET NASH JETER,)
)
Defendant.)

AFFIDAVIT

The Affiant first being duly sworn, deposes and says:

That she is a defendant charged in the above captioned case as a result of an apartment at 243-C Northpoint Avenue, High Point, North Carolina being searched on November 7, 1994 by various government agents working with the High Point Police Department as well as other agencies.

That although the defendant, Velvet Nash Jeter does not live in this apartment nor have any connections with same, the apartment was placed in her name at the time of the execution of the lease. The defendant was not present at the time of the search on November 7, 1994; however, she is informed and believes and therefore alleges that she may have standing to object to what she is informed and now believes was an illegal search of these premises.

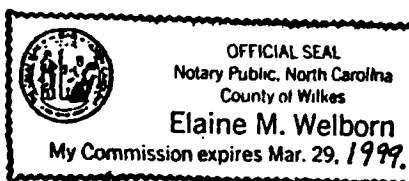
That the defendant is one of several defendants charged with various violations of the Controlled Substance Act as a result of the search of this apartment on this date. Further, that the defendant is informed and does allege upon information and belief that the evidence seized by the officials on this day was a substantial violation of the provisions of Chapter 15A of the North Carolina General Statutes and same was violative of her constitutional rights as set forth in the Fourth and Fourteenth Amendments of the United States Constitution and the applicable and corresponding sections of the North Carolina Constitution.

This the 8th. day of March, 1995.

Velvet Nash Jeter
Velvet Nash Jeter

SWORN TO and subscribed
before me this the 8th. day
of March, 1995.

Elaine M. Welborn
Notary Public
My Commission Expires: 3/29/99.



STATE OF NORTH CAROLINA

In The General Court of Justice

District Superior Court Division

Guilford

County

FILED

File No.

94 CRS 017497

Film No.

STATE VERSUS

Defendant

Velvet Nash Jeter

BY

WAIVER/CERTIFICATION OF ARRAIGNMENT

G.S. 15A-945

Offense

P/W/I/S/D MARIJUANA

WAIVER OF ARRAIGNMENT

In accordance with G.S. 15A-945, the undersigned defendant waives arraignment in Superior Court and enters a plea of not guilty to the charges contained in the bill of indictment referenced above.

The undersigned defendant and his attorney represent that:

- there are no pending pretrial motions.
- the only pretrial motions pending are those listed below which are in writing and have been filed with the Clerk of Superior Court.

List motions

Date February 9, 1995

Signature of Attorney

Signature of Defendant

CERTIFICATION OF ARRAIGNMENT

I certify that the defendant was arraigned on this bill of indictment on the date shown below and entered a plea of:

- guilty
- not guilty
- no contest

CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for the opposing party or parties in the foregoing matter with a copy of this pleading by depositing in the United States Mail a copy of same in a properly addressed envelope with adequate postage thereon.

This 10th day of February 1995

By

Date of Arraignment	Date of Certification
Signature	
<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk of Superior Court	

Exhibit "E"

GUILEFORD COUNTY
FILED
MAY 30 1995
11:30
CLERK OF SUPERIOR COURT

File No. 94CRS 17497

STATE OF NORTH CAROLINA

Guilford County

In The General Court Of Justice
District Superior Court Division

STATE VERSUS

DISMISSAL / NOTICE OF REINSTATEMENT

Defendant

Velvet Jeter

G.S. 15A-302(e);-931;932;-1009

Offense

PW175C5

DISMISSAL

The undersigned prosecutor enters a dismissal to the above charge(s) and assigns the following reasons:

- No crime is charged.
- There is insufficient evidence to warrant prosecution for the following reasons:
- Defendant has agreed to plead guilty to the following charges:

In exchange for a dismissal of the following charges:

Other (specify) cooperating w/ Fed authorities

A jury has not been impanelled nor has evidence been introduced. (If a jury has been impanelled, or if evidence has been introduced, modify this sentence accordingly.)

DISMISSAL WITH LEAVE

The undersigned prosecutor enters a dismissal with leave to the above charge(s) and assigns the following reasons:

- The defendant failed to appear for a criminal proceeding at which his attendance was required and the prosecutor believes that the defendant can not readily be found.
- The defendant has been indicted and cannot readily be found to be served with an Order for Arrest.
- The defendant has been found by a court to be incapable of proceeding pursuant to Article 56 of G.S. Chapter 15A.

NOTE: This form must be completed and signed by the prosecutor when the dismissal occurs out of court. The better practice is for the prosecutor to complete and sign the form when the charges are orally dismissed in open court.

Date

5/30/95

Signature Of Prosecutor

R. Hyle

REINSTATEMENT

This case having previously been dismissed with leave because the defendant failed to appear in court as required, is now reinstated for trial.

Date

Signature Of Prosecutor

EXHIBIT

"F"

State of North Carolina Guilford County
In The General Court Of Justice
District Court Division

In The Matter Of: VELVET N. JETER AND Date Issued: 11/7/94
243-C NORTHPOINT AVENUE Time Issued: 1:24 am
HIGH POINT, NORTH CAROLINA

Name of Applicant: J.C. BLANK, Detective, HPPD
Name of Additional Applicant:
Name of Additional Applicant:
To Any Officer With Authority And Jurisdiction To Conduct The Search
Authorized By This Search Warrant:

I, The undersigned, find that there is probable cause to believe that the
property and person described in the application and related to the
commission of a crime is located as described in the application.

You are commanded to search the premises, vehicle, person and other place
or item described in the application for the property and person in
question. If the property and/or person are found, make the seizure and
keep the property subject to Court Order and process the person according
to law.

You are directed to execute this Search Warrant within forty-eight (48)
hours from the time indicated on this Warrant and make due return to the
Clerk of the Issuing Court.

This Search Warrant is issued upon information furnished under oath by the
person or persons shown.

Date: 11/7/94 Signature: [Signature]
() Deputy CSC () Asst. CSC () Clerk of Superior Court (X) Magistrate
() District Court Judge () Superior Court Judge

RETURN OF SERVICE:
I certify that this Search WARRANT was received and executed as follows:

Date Received: 7 Nov 94 Time Received: 1:25 AM
Date Executed: 7 Nov 94
Date Returned: 9 NOV 94 Time Returned: 4:39 PM

(X) I made a search of: 243-C Northpoint Avenue
High Point, N.C.
as commanded.

(X) I seized the items listed on the attached inventory.
() I did not seize any items.
() This warrant was not executed within 48 hours of the date of issuance
and I hereby return it not executed.

Signature of Officer Making Return: [Signature]
Department/Agency of Officer: High Point Police Department

This Search Warrant was returned to me on the date and time shown below.
Date: Time:
Signature: () Deputy CSC () Asst. CSC () CSC

***** SEARCH WARRANT *****

I; J.C. BLANK, Detective, Vice/Narcotics Unit, High Point Police Department, being duly sworn, request that the court issue a warrant to search the person, place, vehicle, and other items described in this application and to find and seize the property and person described in this application. There is probable cause to believe that Marijuana, a controlled substance included in Schedule VI of the North Carolina Controlled Substances Act, U.S. Currency, Drug Paraphernalia, bills, receipts, etc, relating to the purchase and distribution of controlled substances; Address/Telephone book reflecting named but not limited to said persons; Photographs, especially co-conspirators, and/or of controlled substances; Indicators of ownership, possession or occupancy, including telephone and utility bills

constitutes evidence of a crime and the identity of a person participating in a crime, to wit: Violations of the North Carolina Controlled Substances Act G.S. 90-95

and is located;

(X) in the following premises, 243-C Northpoint Avenue, High Point, North Carolina. This is a apartment in the Raintree Apartment complex. The building has the numbers "243", prominently displayed on the side of the building and the letter "C" on the door to the apartment. Lt. Kearns is familiar with the residence.

() on the following person(s),

() in the following vehicle(s)

() any other places to be searched,

The applicant swears to the following facts to establish probable cause for the issuance of a search warrant: The applicant has spoken with Officers Brent Kinney, Jerry Blue, Ken Shultz and was told the following facts; Officer Kinney was on Northpoint Avenue and observed a 1990 Nissan Maxima, North Carolina registration HWE-8074, driven by a suspect wanted for Felony drug violations in Winston-Salem, North Carolina. The suspect is Patrick Harvey, a Black Male. Harvey's description had been given to all officer of the Police Department. Officer Kinney recognized this suspect from a Winston-Salem mugshot profile. Kinney stopped this vehicle on a parking lot on North Main Street. The driver then fled in the vehicle in the Old Winston Road area. Officer Kinney stated that Officer Steve McHenry then observed a black male running in the area of Pine Valley Road and Monnell Drive. The 1990 Nissan Maxima was located on Pine Valley Road. This vehicle is registered to Velvet Jeter of 243-C Northpoint Avenue. Officer Blue then went to the 243 building on Northpoint Avenue in an attempt to locate the suspect that fled from officer Kinney. Blue knew this address to be associated with Patrick Harvey.

After a short period of time officer Blue observed a black female come out of 243-C Northpoint Avenue and look around the area. She then went back into the 243-C Northpoint Avenue, then a black male came out from 243-C Northpoint Avenue. This Black male reasonably fit the physical description that Officer Blue knew to be that of Patrick Harvey.

The subject was then detained by officer Blue and arrested for carrying a concealed weapon (4" lock blade knife). He was found to be Casmore A.

Stewart of Bloomfield, Connecticut. Stewart stated that he was watching apartment, waiting to see if a girl came there with a man. Officer's Blue and Shultz then went to apartment 243-C and knocked on the door. The door was not secured and it opened upon their knock. No one would come to the door and no sounds could be heard by the officers. After seeing the black female come from apartment 243-C a few minutes earlier officer Blue and Shultz went into the apartment to check on the welfare of this person. They were concerned for her safety after finding an armed man who was not telling the truth about coming from the apartment, and who had also stated that he was "waiting" for a woman to come to the apartments with a man.

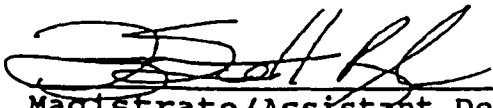
Once inside the apartment, the officers made a cursory search of the room for persons. The apartment was empty. The Black female had apparently abandoned the premises after the initial police activity of the arrest.


In the apartment dining room area the officers saw a quantity of marijuana. The marijuana was in plain view. On top of an ironing board was a one pound size plastic bag containing marijuana. Beside this was a scale and marijuana debris. Nearby were two garbage bags. One of these bags was open at the neck and was seen to contain additional bags of marijuana.

Officers Blue and Schultz immediately notified their Supervisor who called for assistance from the applicant. Police Officers have maintained security at the door to the apartment since that time.

High Point City Utilities lists 243-C Northpoint Avenue to Velvet N. Jeter, date of birth 11/09/49.

Sworn to and subscribed before me
this 7th day of November 1994


Magistrate/Assistant Deputy
Clerk of Superior Court/District
Superior Court Judge


Signature of Applicant

Detective J.C. Blank, HPPD

Exhibit "G"

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
GREENSBORO DIVISION

TIMOTHY ADAMS,)
)
Petitioner,) No. 1:97CVO1225
) 6:94CR302-3
v.)
)
UNITED STATES OF AMERICA,)
)
Respondent.)

AFFIDAVIT

In response to Petitioner's latest motion for relief from the judgment, now comes your Affiant, who being first duly sworn, deposes and says:

That I represented the above-captioned individual in the charges lodged against him case No. 6:94CR302-3, in the Middle District of North Carolina.

The defendant continues to allege in his latest motion that there exists a conflict, in that, our firm had represented an individual named Velvet Jetter, prior to our representation of him. It is correct that Ms. Jetter was represented by this firm and that pleadings were filed in the State Court on our behalf, which bear the firm's name and my signature. As stated previously, this matter was primarily handled by an associate of the firm who is no longer employed with us; however, I have reviewed the file in this matter, and reassert that at no time did Ms. Jetter, to my knowledge, ever provide any information in which implicated Mr. Adams or even mentioned the defendant. Ms. Jetter's case was not a Federal, but was handled in the State Courts of North Carolina. It nothing to do with a conspiracy and her cooperation in that matter did not produce any information

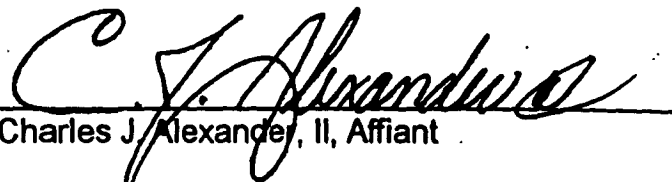


whatsoever about the defendant, Adams. At no time during the representation of Mr. Adams was Ms. Jetter ever placed on a Government's Witness List, nor was she in fact ever called as a witness in the case against Mr. Adams.

A full review of Mr. Adams file, which was provided in pre-trial discovery did not show that Ms. Jetter's name or any information pertaining to Ms. Jetter was contained in the file which mentioned any statement that Ms. Jetter had made regarding Mr. Adams.

If further information is needed regarding this matter, I would be happy to provide same upon request.


Respectfully submitted this the 8th. day of November, 2004.


Charles J. Alexander, II, Affiant

SWORN TO and subscribed

before me, this the 8th. day of

November, 2004.


Notary Public

My commission expires March 29, 2009.