

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
PEORIA DIVISION**

JOHN E. BLAIR,)	
)	
Petitioner,)	
)	
v.)	Case No. 03-cv-1158
)	09-cv-1351
UNITED STATES OF AMERICA,)	00-cr-10033
)	
Respondent.)	

ORDER

This matter is before the Court on Respondent’s Motion for Withdrawal of the Record (Doc. 20, 03-cv-1158). For the reasons stated below, this Motion is granted.

In October 2009, Petitioner filed a “Motion to Expunge Conviction Pursuant to Rule 33(b)(1)” in his criminal case. (Doc. 47, 00-cr-10033). The Court ordered Respondent to respond to Petitioner’s claims under Federal Rule of Criminal Procedure 33(b)(1). (Doc. 48, 00-cr-10033). In addition, the Court construed Petitioner’s Motion as potentially raising a § 2255 claim, and ordered Respondent to respond to these issues, as well; the potential § 2255 claim was docketed as case number 09-cv-1351. (Doc. 3, 09-cv-1351).

Respondent has filed the instant Motion for Withdrawal of the Record in case number 03-cv-1158. (Doc. 20, 03-cv-1158). Petitioner filed a Petition under § 2255 in May 2003, which was denied in August 2003. (Docs. 1 & 9, 03-cv-1158). In its Motion, Respondent notes that it needs to review the record in this case in order to prepare its response to Petitioner’s potential § 2255 claim in case number 09-cv-

1351.¹ The Court agrees that Respondent's response in 09-cv-1351 should include a discussion of case number 03-cv-1158, and will grant Respondent's Motion for Withdrawal of the Record.

IT IS THEREFORE ORDERED:

1. Respondent's Motion for Withdrawal of the Record (Doc. 20, 03-cv-1158) is GRANTED.
2. The Clerk is DIRECTED to release the record of case number 03-cv-1158 to Respondent's counsel.
3. Respondent's counsel SHALL execute and return to the Clerk an appropriate receipt for the record, and promptly return the record to the Clerk.
4. The Clerk is DIRECTED to file this Order in case numbers 03-cv-1158, 09-cv-1351, and 00-cr-10033.

Entered this 8th day of December, 2009

s/ Joe B. McDade

JOE BILLY McDADE
United States District Judge

¹ Petitioner also filed a § 2255 petition in August 2002, which was dismissed without prejudice by this Court. (Doc. 6, 02-cv-1284). As noted by the Court in its October 16, 2009 Order, the August 2002 petition does not bar Petitioner's potential § 2255 claim in 09-cv-1351 under § 2255(h). (Doc. 3 at 2, 09-cv-1351).

The Court was not aware of the May 2003 § 2255 petition until Respondent's instant Motion, and expresses no opinion as to whether the May 2003 petition bars a new § 2255 motion by Petitioner.