

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION**

RANDALL FOSTER,)	
)	
Petitioner,)	
)	
v.)	No. 09-3034
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

OPINION

JEANNE E. SCOTT, U.S. District Judge:

This cause is before the Court on Petitioner's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (d/e 1) (Petition). The Court now makes the initial consideration of Petitioner's Petition under Rule 4 of the Rules Governing § 2255 Cases.

After a review of the Petition, this Court finds that a summary dismissal is not warranted. Therefore, pursuant to Rule 4, the Court directs the United States to respond to Petitioner's Petition. The response shall discuss the merits and the procedural posture of the Petition. See Rule 5 of the Rules Governing § 2255 Cases.

Petitioner also filed a Motion for Permission to File a Memorandum

of Law in Support of the Motion to Vacate, Set Aside, or Correct Sentence (d/e 2). Petitioner believes that a memorandum of law in support of his Petition will allow the Court to better understand the claims he has raised.

THEREFORE, Petitioner's Motion for Permission to File a Memorandum of Law in Support of the Motion to Vacate, Set Aside, or Correct Sentence (d/e 2) is ALLOWED. Petitioner is ordered to file his Memorandum of Law by June 1, 2009. The United States Attorney is ordered to file its answer pursuant to Rule 5 of the Rules Governing 28 U.S.C. § 2255 Cases to Petitioner's Petition on or before July 1, 2009. Petitioner is granted 21 days from the time the answer is filed to file a reply.

Additionally, the Court notes that Petitioner filed a Motion for an Abeyance (d/e 3), asking the Court not to rule on his Petition until the Seventh Circuit resolved his direct appeal. Both parties now have informed the Court that the Seventh Circuit has issued its ruling, and Petitioner indicates that he will not file a petition for writ of certiorari before the Supreme Court. THEREFORE, Petitioner's Motion for an Abeyance (d/e 3) is DENIED as moot.

IT IS THEREFORE SO ORDERED.

ENTER: May 1, 2009

FOR THE COURT:

s/ Jeanne E. Scott
JEANNE E. SCOTT
UNITED STATES DISTRICT JUDGE