

FILED

AUG 02 2006

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURTUNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

Kelvin Junior Stephenson, Petitioner,	:	Civil No. 05-CV-6052
	:	
v.	:	
	:	
UNITED STATES OF AMERICA, Respondant.	:	ss: <u>§2255 Motion</u>

MOTION FOR RESPONSE FROM
DISTRICT COURT ON PETITIONER'S PRIOR MOTION FOR RECONSIDERATION

AND NOW COMES Kelvin Junior Stephenson, petitioner pro se and hereby prays and respectfully moves this Honorable Court to respond to petitioner's request for reconsideration of its October 27, 2005 ORDER dismissing the §2255 as a successive petition. Petitioner has prayed and moved this Honorable Court on successive occasions, i.e., November 8, 2005; January 4, 2006; and April 12, 2006, and to date this Honorable Court has not responded to petitioner's request, despite Supreme Court authority, Slack v. McDaniel, 529 U.S. 473 (2000), which clearly declared that when a prior petition is dismissed without prejudice as unexhausted, the refiled petition is not successive.

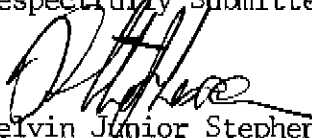
Furthermore, petitioner is seeking reconsideration of the ORDER denying habeas because upon reconsideration of the petition on the merits, the record will show that counsel was ineffective for failing to file a notice of appeal at petitioner's request and failed to file an Anders brief pursuant to Anders v. California, 366 U.S. 738, 744 (1967), based upon counsel's letter

to petitioner that counsel "cannot see any meritorious basis for appeal, and I have no intention of filing an appeal on your behalf." (See Exhibit "D" filed with successive habeas "Motion For Evidentiary Hearing.").

Since Civil Action No. 04-CV-6531 was dismissed without prejudice, the instant habeas should be determined on the merits of the claims. And petitioner hereby prays for this Honorable Court to REVERSE the ORDER of October 27, 2005, RESPOND to the instant motion, and determine the habeas on the merits to avoid any protracted litigation on an issue that petitioner is clearly entitled to relief.

Done this 24th day of July, 2006.

Respectfully Submitted,



Kelvin Junior Stephenson - Pro Se
Reg. No. 20366-424
LSCI Allenwood
P.O. Box 1000
White Deer, PA 17887-1000

PROOF OF SERVICE

I certify that on July 25, 2006 (date) I mailed a copy of this brief and all attachments via first class mail to the following parties **at the addresses listed below:**

Clerk's Office
U.S. District Court
Northern District of Illinois
219 South Dearborn Street
Chicago, IL 60604

(Original and Two Copies of Motion for Response From District Court On Petitioner's Motion For Reconsideration)

Kevin J. Powers-AUSA
U.S. Attorney's Office
Northern District of Illinois
219 South Dearborn Street
Room 500
Chicago, IL 60604
(One Copy-Same)

PROOF OF SERVICE FOR INSTITUTIONALIZED OR INCARCERATED LITIGANTS

In addition to the above proof of service all litigants who are currently institutionalized or incarcerated should include the following statement on all documents to be filed with this Court:

I certify that this document was given to prison officials on 7/25/06 (date) for forwarding to the Court ~~to appear~~. I certify under penalty of perjury that the foregoing is true and correct. 28 U.S.C. §1746.



Signature

Kelvin Junior Stephenson - Pro Se
Reg. No. 20366-424
LSCI Allenwood
P.O. Box 1000
White Deer, PA 17887-1000

Dated: July 25, 2006