

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

United States of America,

v.

Paul Schiro.

No. 13 C 6664
Judge James B. Zagel

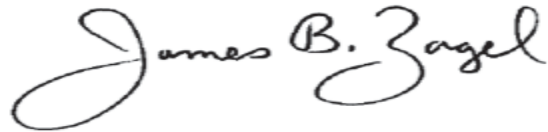
MEMORANDUM OPINION AND ORDER

Petitioner, Paul Schiro, seeks to vacate his conviction pursuant to the provisions of Section 2255 of Title 28. The claim is that his trial counsel and appellate counsel were constitutionally ineffective and Petitioner is entitled to a new trial. There are claims about the failure to invoke statute of limitations or a withdrawal defense or to challenge sufficiency of evidence. In the context of this case, these claims are fairly weak but not necessarily fatal to Petitioner's claim. Petitioner has also stated under oath that he told his lawyer about his various defenses, particularly the limitations defense and the withdrawal defense -- and the witnesses that might support it.

It is my judgment that the method of resolution of the 2255 claims would be improved if an evidentiary hearing were held. In his reply brief, Petitioner offers his own written affidavit supported by two close relatives. I cannot consider these statements without giving the government the right to cross-examine Petitioner and his relatives. To have any chance of success, Petitioner probably needs to testify to the matters covered in his affidavit. I will order an evidentiary hearing on the merits of Petitioner's claim of ineffective assistance of counsel. Petitioner should understand that if he does testify, he will be subject to cross-examination by the government. To the extent that Petitioner offers testimony about the specific claims made in his affidavit, he will be unable effectively to refuse to answer questions by asserting his privilege to remain silent.

The court will set a date for hearing in consultation with the government, Petitioner and the Bureau of Prisons.

ENTER:

A handwritten signature in black ink that reads "James B. Zagel". The signature is written in a cursive style with a large, looping initial "J".

James B. Zagel
United States District Judge

DATE: June 12, 2014