

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

DOUGLAS L. NITCH,)	
)	
Petitioner/Defendant,)	
)	CIVIL NO. 08-cv-077-JPG
vs.)	
)	CRIMINAL NO. 02-cr-40078
UNITED STATES of AMERICA ,)	
)	
Respondent/Plaintiff.)	

MEMORANDUM AND ORDER

GILBERT, District Judge:

This matter is before the Court on Petitioner’s motion for relief pursuant to 28 U.S.C. § 2255. Following a jury trial, Petitioner was found guilty of one count involving the manufacture and distribution of methamphetamine; he was sentenced to 168 months imprisonment, five years supervised release, a fine of \$500, and a special assessment of \$100. On appeal, Petitioner argued that “there was an impermissible variance between the single conspiracy charged in the indictment and the multiple conspiracies proven at the trial, and that his sentence [was] unreasonable.” *United States v. Nitch*, 477 F.3d 933, 935 (7th Cir.), *cert. denied*, 127 S.Ct. 3024 (2007). Each of these arguments was rejected; his conviction and sentence were affirmed. *Id.* at 938. On February 4, 2008, Petitioner filed the instant motion under § 2255.

In his motion, Petitioner raises the following grounds for relief: (1) counsel was ineffective in failing to challenge his relevant conduct at sentencing, (2) counsel was ineffective in failing to establish that Petitioner had withdrawn from the charged conspiracy, and (3) counsel was ineffective in failing to properly advise Petitioner of the consequences of a not-guilty plea.

The Court **ORDERS** the Government to file a response to Petitioner's motion within **THIRTY (30) DAYS** of the date of this Order. The Government shall, as part of its response, attach all relevant portions of the record.

IT IS SO ORDERED.

Dated: November 21, 2008.

s/ J. Phil Gilbert
U. S. District Judge