

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

RYAN STEIN,)	
)	
Petitioner/Defendant,)	
)	CIVIL NO. 09-cv-398-JPG
vs.)	
)	CRIMINAL NO. 05-cr-40033
UNITED STATES of AMERICA ,)	
)	
Respondent/Plaintiff.)	

MEMORANDUM AND ORDER

GILBERT, District Judge:

This matter is before the Court on Petitioner’s motion to vacate, set aside, or correct sentence, pursuant to 28 U.S.C. § 2255 (Doc. 1). Also before the Court is Petitioner’s motion to amend his § 2255 action (Doc. 2).

Petitioner was found guilty, after a jury trial, of conspiring to manufacture and distribute more than 50 grams of a substance containing methamphetamine. On March 1, 2007, Petitioner was sentenced to 240 months imprisonment, 10 years supervised release, a fine of \$400, and a special assessment of \$100. Petitioner’s sentence were affirmed on direct appeal. *United States v. Stein*, Case No. 07-1510 (7th Cir. Dec. 14, 2007). Petitioner’s application for a writ of certiorari to the Supreme Court of the United States was denied. *Stein v. United States*, 128 S.Ct. 2523 (May 27, 2008).

In his § 2255 motion, Petitioner raises 9 grounds of alleged ineffective assistance of counsel. Additionally, Petitioner contends that his conviction and sentence vilate the First, Fourth, Fifth,

Sixth, and Eighth Amendments.

The rules governing § 2255 proceedings contain no provision for making amendments, so instead courts look to Federal Rule of Civil Procedure 15 for guidance by analogy. See Sec. 2255 R. 12; *Johnson v. United States*, 196 F.3d 802, 805 (7th Cir.1999). Rule 15 permits a party to amend its pleading once as a matter of course before being served with a responsive pleading. Fed R. Civ. P. 15(a)(1)(A). The Government has yet to file a responsive pleading in this case and, therefore, leave from the Court to file an amended motion is not - as of this date - required. Accordingly, Petitioner's motion to amend his motion (Doc. 2) will be **DENIED**, without prejudice, as moot.

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: January 4, 2010.

s/ J. Phil Gilbert

U. S. District Judge