

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

<b>PATRICK DUNCAN,</b>	)	
	)	
<b>Petitioner/Defendant,</b>	)	
	)	<b>CIVIL NO. 09-cv-900-MJR</b>
<b>vs.</b>	)	
	)	<b>CRIMINAL NO. 05-cr-30025</b>
<b>UNITED STATES of AMERICA ,</b>	)	
	)	
<b>Respondent/Plaintiff.</b>	)	

**MEMORANDUM AND ORDER**

**REAGAN, District Judge:**

This matter is before the Court on Petitioner’s motion for relief pursuant to 28 U.S.C. § 2255. On September 2, 2005, Petitioner made an open plea to a three count indictment. The first count of the superceding indictment charged Petitioner with: conspiracy to transport in interstate commerce counterfeit securities (i.e., checks) knowing the same to be counterfeit in violation of 18 U.S.C. §§ 371 and 2314; conspiracy to transport money and property having the value of \$5,000 or more in interstate commerce, having devised a scheme to defraud and for obtaining money and property by means of false and fraudulent pretenses in violation of 18 U.S.C. §§ 371 and 2314; and conspiracy to knowingly produce false identification, including five or more such documents, the production, transfer, possession and use thereof affected interstate commerce in violation of 18 U.S.C. §§ 317, 1028(a)(1), (2), & (3). Count 2 charged Petitioner with conspiracy to commit wire fraud in violation of 18 U.S.C. § 1349. Count 3 charged Petitioner with a violation of the National Stolen Property Act in violation of 18 U.S.C. § 2314 .

On March 1, 2006, Petitioner was sentenced to 96 months imprisonment, 3 years supervised release, a special assessment of \$300.00, and restitution of \$177,726.92. Petitioner appealed the restitution portion of his sentence, but that portion of his sentence was affirmed by the Seventh Circuit Court of Appeals. *See United States v. Duncan*, Case No. 06-1614 (7<sup>th</sup> Cir., April 9, 2008). Petitioner sought, but was denied, a writ of certiorari to the United States Supreme Court. *Id.* On October 26, 2009, Petitioner filed the instant motion under § 2255.

In his motion the Petitioner claims that he was denied ineffective assistance of counsel as to Counts 2 and 3 of the superseding indictment.

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.

Plaintiff's motion to place this matter on the "civil fast track" (Doc. 2) is **DENIED**.

**IT IS SO ORDERED.**

**DATED this 27th day of April, 2010.**

s/ Michael J. Reagan  
**MICHAEL J. REAGAN**  
**United States District Judge**