

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

MONTE S. GEARHART,)	
)	
Petitioner/Defendant,)	
)	CIVIL NO. 10-cv-483-JPG
vs.)	
)	CRIMINAL NO. 06-cr-40004
UNITED STATES of AMERICA ,)	
)	
Respondent/Plaintiff.)	

MEMORANDUM AND ORDER

GILBERT, District Judge:

This matter is before the Court on Petitioner Monte Gearhart's motion for relief pursuant to 28 U.S.C. § 2255.

Gearhart was found guilty of conspiracy to manufacture and distribute methamphetamine. On February 29, 2008, Gearhart was sentenced to life imprisonment, a fine of \$500, and a special assessment of \$100. On appeal, Gearhart argued that his rights were violated under the Sixth Amendment and the Speedy Trial Act, and that the District Court erred in granting Counsel's motion to withdraw. The Seventh Circuit disagreed, affirming his conviction and sentence. *United States v. Gearhart*, 576 F.3d 459 (7th Cir. 2009).

Gearhart then filed the instant motion under § 2255. In his motion, Gearhart asserts (1) the Government failed to meet its burden of proof; (2) Counsel was ineffective in seeking numerous continuances without consulting him; (3) Counsel was ineffective in being unprepared for trial; and (4) the Court erred in presenting improper instructions to the jury. Gearhart also has filed two motions for leave to amend his petition should it become necessary (Docs. 2, 3). At this time, no

amendment is necessary; thus, these motions are **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: August 10, 2010.

s/ J. Phil Gilbert

U. S. District Judge