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

COREY LOUIS HINES, #31660-044,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 11-CV-1064-MJR
	)	
UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

MEMORANDUM AND ORDER

REAGAN, District Judge:

This matter is before the Court on Corey Hines' notice of appeal to the United States Court of Appeals for the Seventh Circuit. On December 5, 2011, Hines filed a motion to vacate, set aside or correct his sentence under 28 U.S C. § 2255. Roughly seven weeks later, Hines filed a motion requesting disposition of preliminary review of his § 2255 petition.

On March 15, 2012, before the undersigned Judge had completed the preliminary review or issued an Order herein, Hines filed a Notice of Appeal. The filing of a Notice of Appeal divested the undersigned Judge of jurisdiction and resulted in a delay of more than four months, during which the Court of Appeals considered Hines' appeal, ultimately dismissing it for lack of jurisdiction.

The Court completed its preliminary review of the § 2255 motion on August 8, 2012, and directed the Government to respond. On September 19, 2012, the same day that the Government filed its response,

Hines filed a Notice of Appeal, appealing the denial of his § 2255 motion (Doc. 29) and a second Notice of Appeal, appealing the denial of his motion that the undersigned Judge recuse himself (Doc. 30).

Under Federal Rule of Appellate Procedure 22(b), in § 2255 proceedings, a petitioner cannot appeal unless a circuit judge or a district judge issues a certificate of appealability under **28 U.S.C. § 2253(c)**. The Court of Appeals can exercise jurisdiction only over final orders, **28 U.S.C. § 1291**, and certain interlocutory and collateral orders, **28 U.S.C. § 1292**. Here, the Court has issued neither a final nor an interlocutory order. Hines' case awaits review and disposition by the district court; therefore, no assessment of his constitutional claims is available for appellate review.

For these reasons, the Court finds that Hines has not stated any grounds for relief under § 2253. He has not made "a substantial showing of the denial of a constitutional right." Accordingly, the Court **ORDERS** that a certificate of appealability shall **NOT** be issued as to either Notice of Appeal (Docs. 29, 30).

IT IS SO ORDERED.

DATED September 20, 2012

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