

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

<p>CALVIN GATES,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Respondent.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>CASE NO. 13-CV-452-WDS</p>
---	---	--------------------------------------

ORDER

STIEHL, District Judge:

Before the Court is petitioner Calvin Gates' pro se motion to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255 (Doc. 1). The Court has completed a preliminary review of the motion pursuant to Rule 4 of the *Rules Governing Section 2255 Proceedings for the United States District Courts*.

In January, 2012, petitioner pleaded guilty, pursuant to a plea agreement, to conspiring with others to knowingly and intentionally distribute, and possessing with intent to distribute, a mixture or substance containing cocaine base, in the form commonly known as "crack," in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(A), and 846. On May 21, 2012, petitioner was sentenced to 120 months in prison.

Petitioner now claims (1) he was denied effective assistance of counsel because counsel did not inform petitioner that the amount of controlled substance attributed to petitioner would be "arbitrarily increased by 800%," subjecting petitioner to a substantially increased period of incarceration; and (2) petitioner's plea was not knowingly or intelligently made, and was made without an understanding of the consequences of the plea because he believed he was pleading to possession of 50 grams of crack cocaine, but the amount attributed to petitioner was changed to 420 grams without his agreement.

Because this is only a preliminary review, the Court has not considered the merits of

petitioner's claims or whether they have been procedurally defaulted. *See generally McCleese v. United States*, 75 F.3d 1174 (7th Cir. 1996); *Massaro v. United States*, 538 U.S. 500 (2003).

Accordingly, the Court **ORDERS** the Government to respond to petitioner's motion (Doc. 1), attaching all relevant portions of the record, within **30 DAYS**.

IT IS SO ORDERED.

DATE: May 29, 2013

/s/ WILLIAM D. STIEHL
DISTRICT JUDGE