

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

GEORGE L. SAMPLE,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

Case No. 13-cv-941-JPG

MEMORANDUM AND ORDER

This matter comes before the Court on petitioner George L. Sample's motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255.

In his criminal case, Sample filed a motion for retroactive application of the sentencing guidelines pursuant to 18 U.S.C. § 3582. *See United States v. Sample*, Case No. 05-cr-40043-JPG, Doc. 169. The Federal Public Defender's office reviewed Sample's case and filed a "no merits" statement on August 23, 2013 (Doc. 175 in criminal case). Considering the content and timing of Sample's § 2255 motion, the Court believes Sample intended to file a response to the Federal Public Defender's "no merits" statement in his criminal case rather than a § 2255 motion.

The Court **WARNS** Sample that it intends to construe his § 2255 motion (Doc. 1) as a response to the Federal Public Defender's "no merits" statement (Doc. 175 in criminal case). If Sample wishes to maintain this § 2255 action, he must inform the Court on or before September 27, 2013. The Court **WARNS** Sample that maintaining this § 2255 action will subject subsequent § 2255 motions to the law's "second or successive" restrictions. *See Castro v. United States*, 540 U.S. 375, 377 (2003).

IT IS SO ORDERED.

DATED: September 13, 2013

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE