

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

ANTONIO T. FOULKS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Case No. 14-cv-01237-JPG

MEMORANDUM AND ORDER

This matter comes before the Court on petitioner Antonio T. Foulks' Motion (Doc. 1) to Vacate, Set Aside or Correct his sentence pursuant to 28 U.S.C. § 2255. Petitioner Foulks' motion survived threshold review (Doc. 3) and the Court conducted a hearing with regard to the sole issue of whether Petitioner was denied due process by ineffective assistance of counsel for failing to appeal the revocation decision. After hearing the testimony and arguments, the Court found that there was no ineffective assistance of counsel with regard to the filing of an appeal.

Petitioner's § 2255 motion also claims that his sentence is unconstitutional because of ineffective assistance of counsel in that his counsel allowed him to plead to a charge that was dismissed which resulted in higher sentence.

Therefore, the Court **ORDERS** the Government to file a response to the remaining issue in Foulks' petition (Doc. 1) by **February 1st, 2016**. The Government shall, as part of its response, attach all relevant portions of the record. Petitioner may file a reply brief (no longer than 5 pages) by **February 29th, 2016**.

If a review of the briefs indicate that an evidentiary hearing is warranted, the court will set the hearing by separate notice.

IT IS SO ORDERED.

DATED: 1/4/2016

s/J. Phil Gilbert

J. PHIL GILBERT
DISTRICT JUDGE