

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

CHRISTOPHER M. HORTON,
Petitioner,

v.

No. 3:17-cv-00023-DRH

UNITED STATES OF AMERICA,
Respondent.

ORDER

HERNDON, District Judge:

Before the Court is petitioner Christopher Horton's ("Horton") motion for Recusal of the Undersigned Judge (Doc. 3). Horton—pursuant to 18 U.S.C. § 144—requests recusal of the undersigned in an attempt to satisfy the ineffective assistance of counsel analysis under *Strickland v. Washington*, 466 U.S. 668 (1984) (*Id.*). Specifically, Horton intends to call the undersigned as a witness to testify whether an expert's testimony would have swayed the Court to render a lesser sentence (*Id.*).

However, Horton's motion is deemed **MOOT** because he cannot call the undersigned as a witness because there will be no hearing. And if there was to be a hearing, the motion for recusal would be denied in any event, as calling the undersigned as a witness would be inappropriate under any circumstances.

As noted by the Seventh Circuit in its opinion affirming this Court's judgment in Horton's criminal appeal, *see United States v. Horton*, 770 F.3d 582 (7th Cir. 2014), at sentencing this Court gave less weight to Horton's background

and greater weight to the need for punishment and the danger that Horton posed to society. The expert witness presented by the defense is a noted expert in the field and is called upon often to testify in court including this Federal Courthouse and his retention and presentation in this case can certainly not be called ineffective representation.

Accordingly, Horton's Motion for Recusal of the Undersigned Judge is deemed **MOOT**.

IT IS SO ORDERED.

Signed this 7th day of June, 2017.

David R. Herndon



Digitally signed by
Judge David R.
Herndon

Date: 2017.06.07
14:32:17 -05'00'

UNITED STATES DISTRICT JUDGE