

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
SOUTHERN DIVISION
(at Pikeville)

UNITED STATES OF AMERICA,)	
)	
Plaintiff/Respondent,)	Criminal Action No. 7: 15-019-DCR
)	and
V.)	Civil Action No. 7: 21-038-DCR
)	
RANDALL CRAIG CARTER,)	MEMORANDUM ORDER
)	
Defendant/Movant.)	

*** **

Defendant Randall Craig Carter has filed a motion seeking to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255. [Record No. 303] In support, Carter claims that his attorney provided ineffective assistance. Based upon this assertion, the United States ordinarily will seek to obtain an affidavit of the movant’s trial attorney in an effort to refute some or all of the defendant’s claims. In this regard, the Court notes that authority from several circuits, including this circuit, would indicate that Carter has waived his otherwise valid assertion of attorney-client privilege with respect to the specific matters raised in his § 2255 motion. See *United States v. Pinson*, 584 F.3d 972, 977 (10th Cir. 2009), *cert. denied*, 559 U.S. 955 (2010); *In re Lott*, 424 F.3d 446, 453 (6th Cir. 2005); *Bittaker v. Woodford*, 331 F.3d 715, 716 (9th Cir. 2003) (en banc); *Johnson v. Alabama*, 256 F.3d 1156, 1178 (11th Cir. 2001); *Tasby v. United States*, 504 F.2d 332, 336 (8th Cir. 1974); and *Laughner v. United States*, 373 F.2d 326, 327 (5th Cir. 1967).

Accordingly, it is hereby

ORDERED as follows:

On or before **May 12, 2021**, Defendant Carter is directed to **SHOW CAUSE** why his claims do not constitute waiver of the attorney-client privilege regarding all claims of ineffective assistance of counsel with respect to his motion filed pursuant to 28 U.S.C. § 2255. [Record No. 303] Carter is advised that a finding of implied waiver will result in the United States being allowed to contact his former attorney for the purpose of obtaining information necessary to respond to his claims of ineffective assistance of counsel.

Dated: April 28, 2021.



A handwritten signature in black ink, appearing to read "Danny C. Reeves".

Danny C. Reeves, Chief Judge
United States District Court
Eastern District of Kentucky