

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

3:08-CV-438

3:06-CR-74-1

HOWELL W. WOLTZ, )  
)  
Petitioner, )  
)  
v. )  
)  
UNITED STATES OF AMERICA, )  
)  
Respondent. )  
\_\_\_\_\_)

**ORDER**

**THIS MATTER** comes before the court upon the Petitioner's Motion to Remove Government Attorneys for Cause (Doc. No. 4), filed November 5, 2008.

In his motion, Petitioner asks this court to remove the Assistant United States Attorneys who prosecuted his underlying criminal case (and those supervising attorneys who oversaw or directed their activities) from this habeas case. There is no indication that these attorneys are representing the Government with regard to Petitioner's pending § 2255 motion. Petitioner also requests that this court "order a full investigation" of these attorneys' "misconduct and possible criminal activities." It is not this court's role to order criminal investigations. Moreover, although the United States District Court for the Southern District of West Virginia did note with regard to Petitioner's § 2241 petition filed in that district that Petitioner's claims of prosecutorial misconduct "would appear to be sufficiently meritorious and deserving of consideration" by this court, it did so only in the context of considering whether transfer to this court was "in the interest of justice" as contemplated by 28 U.S.C. § 1631. Woltz v. United States, Civil Action

No. 5:08-1103, at 5 (S.D.W.Va. Oct. 22, 2008). That court made no finding on the merits of any of Petitioner's claims.

**THEREFORE, IT IS HEREBY ORDERED that the motion is DENIED.**

This 13 November 2008.

A handwritten signature in green ink, appearing to read "W. Earl Britt", is written over a horizontal line.

W. Earl Britt  
Senior U.S. District Judge