

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:08cv516**

RICHARD OLTON,)	
)	
Petitioner,)	
)	
v.)	<u>ORDER</u>
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
)	

THIS MATTER comes before the Court upon the Petitioner's Motion to Vacate, Set Aside, or Correct Sentence [Doc. 1], filed November 13, 2008.

Petitioner has filed a Motion to Vacate, Set Aside, or Correct Sentence¹ asserting numerous claims. At the conclusion of his Motion, Petitioner states that he has three additional claims “about not having a fair trial in accordance with the Fifth Amendment” that he wishes to raise. Petitioner also asserts that he would like to raise a double jeopardy claim.

¹ It appears from the docket sheet that Petitioner filed two motions to vacate a day apart from each other that were both filed under the above-referenced case number. The Court will treat these two motions together as one single motion.

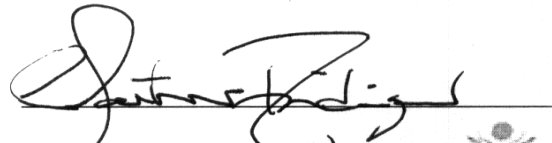
He contends, however, that he does not know how to word these claims and therefore would like an attorney to file these claims for him. [Doc. 1 at 21 ¶¶15-16].

There is no constitutional right to counsel in proceedings under 28 U.S.C. § 2255. Crowe v. United States, 175 F.2d 799 (4th Cir. 1949). Petitioner has not presented any argument that persuades this Court that counsel should be appointed in his case. Consequently, this Court will grant Petitioner thirty (30) days in which to amend his Motion to Vacate to set forth supporting arguments for the above-referenced claims. Petitioner is cautioned that the failure to file an amendment will be construed by the Court as reflecting the Petitioner's desire to abandon these claims and to advocate them no further. In addition, Petitioner is cautioned that he may not add any additional claims not already asserted in his pending Motion to Vacate as his statute of limitations has expired. See 28 U.S.C. § 2255.

IT IS, THEREFORE, ORDERED that Petitioner shall have thirty (30) days from the filing of this Order in which to file an amendment to his Motion to Vacate, Set Aside, or Correct Sentence, setting forth supporting argument for the additional claims referenced by Petitioner at the end of his Motion to Vacate [Doc. 1].

IT IS SO ORDERED.

Signed: March 3, 2009


Martin Reiding
United States District Judge

