

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:10-CV-00488-RJC  
3:04-CR-271-07-RJC

NICHOLAS RAGIN )

v. )

UNITED STATES OF AMERICA )  
\_\_\_\_\_ )

ORDER

**THIS MATTER** comes before the Court upon Petitioner’s Motion to Vacate, pursuant to 28 U.S.C. § 2255, (Doc. No. 1); the Government’s Response and Motion for Summary Judgment (Doc. Nos. 15, 17); and Petitioner’s Cross-Motion for Summary Judgment, (Doc. No. 21).

After careful review of the pleadings, the Court has determined that an evidentiary hearing is necessary to resolve Petitioner’s claim that his attorney provided ineffective assistance when he fell asleep during trial. (Doc. No. 1: Motion at 3).

Rule 8(c) of the Rules Governing Section 2255 Proceedings requires the appointment of counsel for such a hearing if the petitioner qualifies under 18 U.S.C. § 3006A. Petitioner previously qualified for appointed counsel in the underlying criminal case (Case No. 3:04-cr-271: Doc. No 9: CJA 20), and the Court is not aware of any change in Petitioner’s financial status. Accordingly, the Court finds that the defendant qualifies for appointed counsel in this matter.

**IT IS, THEREFORE, ORDERED** that:

1. an evidentiary hearing regarding Petitioner’s claim that his attorney provided ineffective assistance when he fell asleep during trial is scheduled for Monday, April 28, 2014, at

9:30 a.m. in Robert D. Potter Courtroom of the United States Courthouse in Charlotte, North Carolina;

2. the United States Marshal have the defendant Nicholas Ragin (Reg. No. 19791-058) present in Charlotte, North Carolina forthwith, but not later than April 28, 2014, at 9:30 a.m. for the hearing; and
3. the Community Defender shall designate counsel promptly to represent Petitioner on the limited issue identified for the evidentiary hearing.

The Clerk is directed to certify copies of this Order to Petitioner, the Community Defender, the United States Attorney, and the United States Marshals Service.

Signed: March 31, 2014



Robert J. Conrad, Jr.  
United States District Judge

