

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:10cv593-3-W  
(3:08cr209)

MATTHEW BOYD LISENCO, )  
 )  
 Petitioner, )  
 v. )  
 )  
 UNITED STATES OF AMERICA, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

**ORDER**


**THIS MATTER** is before the Court on its own motion. On November 17, 2010 Petitioner filed a Motion to Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C. § 2255. (Doc. No. 1). On January 21, 2011, the United States filed a motion for extension of time to file its response to Petitioner’s Motion to Vacate due, in part, to Petitioner’s trial counsel’s representation that he had concerns about providing an affidavit to the United States due to his “ethical duty toward his client.” (Doc. No. 3). Government counsel represented that she has not heard back from Petitioner’s counsel as to whether he intends to provide an affidavit, but that she will prepare a response without the benefit of such an affidavit. (Id.). The Court granted the Government’s motion on January 24, 2011 and directed the Government to file its response on or before February 22, 2011. (Doc. No. 4). The Court now directs Petitioner’s counsel from his criminal case, Mr. Peter Adolph, to prepare a document, to be submitted directly to chambers for the Court to review ex parte and in camera, that explains the basis for his ethical concern related to his client. Such document shall be submitted to chambers on or before February 11, 2011 at noon.

**IT IS, THEREFORE ORDERED** that:

- (1) On or before February 11, 2011 at noon, Mr. Peter Adolph shall submit a document directly to chambers explaining the basis for his ethical concern related to his client.
- (2) The Clerk is directed to serve a copy of this Order on Mr. Adolph, of the Federal Defenders Office, both electronically and by United States mail.

**SO ORDERED.**

Signed: January 25, 2011

  
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Frank D. Whitney  
United States District Judge

