

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:12-cv-735-RJC
(3:05-cr-227-RJC-DCK-1)**

AVERY SHANDEL JAMES,)
)
 Petitioner,)
)
vs.) **ORDER**
)
UNITED STATES OF AMERICA,)
)
 Respondent.)
_____)

This matter is before the Court on the Government’s Motion to Hold Case in Abeyance, (Doc. No. 27), in which Respondent seeks to stay the proceedings on Petitioner’s Motion to Vacate filed pursuant to 28 U.S.C. § 2255,¹ pending resolution of the appeal in United States v. Wheeler, Fourth Circuit Case No. 16-6073.² Respondent represents that Petitioner has consented to the motion.

IT IS HEREBY ORDERED that the Government’s Motion to Hold Case in Abeyance, (Doc. No. 27), is **GRANTED**. The United States shall have 45 days after the Fourth Circuit issues Wheeler in which to move to re-open this case and file a response.

Signed: February 21, 2018



Robert J. Conrad, Jr.
United States District Judge



¹ Petitioner alternatively seeks habeas relief pursuant to 28 U.S.C. § 2241, *coram nobis* relief under 28 U.S.C. § 1651(a) or a writ of *audita querela*.

² This case was previously stayed pursuant to United States v. Surratt, which the United States Supreme Court resolved on December 11, 2017, by denying certiorari. 2017 WL 3118063 (Dec. 11, 2017).