

**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.)
)
 UNITED STATES OF AMERICA,)
)
 Respondent.)
 _____)

ORDER

THIS MATTER is before the Court on the Government’s Motion to Hold Case in Abeyance, (Doc. No. 30).

This matter is currently being held in abeyance pending resolution of United States v. Wheeler, which was decided by the Fourth Circuit Court of Appeals on June 11, 2018. United States v. Wheeler, 734 Fed. App. 892 (4th Cir. 2018). The Government now asks this Court to hold the action in abeyance until either: (1) the Government decides not to file a petition for writ of certiorari in United States v. Wheeler; or (2) if the United States does file a petition for writ of certiorari, Wheeler is resolved by the United States Supreme Court. The Petitioner opposes this request. The Government’s Motion to Hold Case in Abeyance is granted. The Government shall notify this Court when either of these events occur and shall have 45 days after either event in which to file its response.

Signed: September 28, 2018



Robert J. Conrad, Jr.
United States District Judge

