

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:16-cv-00443-RJC  
(3:11-cr-00179-RJC-1)**

**FRAZIER DERRING,** )  
 )  
 **Petitioner,** )  
 )  
 vs. ) **ORDER**  
 )  
 **UNITED STATES OF AMERICA,** )  
 )  
 **Respondent.** )  
 \_\_\_\_\_ )

**THIS MATTER** is before the Court upon the Government’s motion to stay disposition of this collateral proceeding pending a decision by the Supreme Court in Beckles v. United States, 137 S. Ct. 886 (2017). (Doc. No. 3). The Court issued its decision in Beckles on March 6, 2017, rendering the Government’s Motion moot.

According to Rule 4(b) of the Rules Governing Section 2255 Proceedings, the Court must examine the § 2255 motion, any attached exhibits, and the record of the prior proceedings and determine whether Petitioner may be entitled to any relief. The Court has conducted a review and finds that, in light of the Supreme Court’s decision in Beckles, the Government need not respond to Petitioner’s § 2255 Motion to Vacate. Accordingly, the Court vacates its August 12, 2016 Order (Doc. No. 2) requiring the Government to file a response to the § 2255 Motion.


**ALSO BEFORE THE COURT** is Petitioner’s court-appointed counsel’s Motion to Withdraw as Counsel. (Doc. No. 4). Local Civil Rule 83.1(f) requires that counsel seeking to withdraw either file written consent of the client or show good cause for the withdrawal. W.D.N.C. Loc. Civ. R. 83.1(f). Counsel for Petitioner has not filed written consent of the client to the withdrawal. Nor has counsel provided a reason for seeking to withdraw. Consequently,

the Court shall deny the Motion to Withdraw as Counsel, without prejudice, because it does not comply with the requirements of Local Civil Rule 83.1(f).

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

1. The Government's Motion to hold this action in abeyance (Doc. No. 3) is **DISMISSED** as moot;
2. The Order requiring the Government to respond to Petitioner's § 2255 Motion (Doc. No. 2) is **VACATED**; and
3. The Motion to Withdraw as Counsel (Doc. No. 4) is **DENIED without prejudice**.

Signed: June 1, 2017



Robert J. Conrad, Jr.  
United States District Judge

