

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
5:17-cv-00179-MOC
(5:13-cr-00053-MOC-1)

STONEY SHEW,)
)
 Petitioner,)
)
 vs.)
)
 UNITED STATES OF AMERICA,)
)
 Respondent.)
 _____)

ORDER

THIS MATTER is before the Court upon an initial review of Stoney Shew’s pro se Motion to Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C. § 2255. (Doc No. 1.) The Motion was filed on October 2, 2017, when Petitioner placed it in the prison mail system. Houston v. Lack, 487 U.S. 266, 267 (1988).

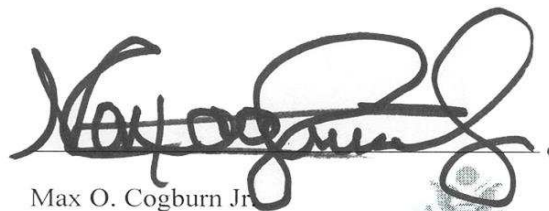
Rule 2(b)(2) of the Rules Governing Section 2255 Proceedings for the United States District Courts requires that a motion to vacate, set aside, or correct sentence “state the facts supporting each ground” for relief raised in the motion. Petitioner raises two grounds for relief. The first alleges that trial counsel was ineffective for failing “to challenge the drug weight used in calculating his PSIR and in determining his sentence.” (§ 2255 Mot. 4, Doc. No. 1.) The second alleges that appellate counsel was ineffective for failing “to raise the question of drug weight in his sentencing.” (§ 2255 Mot. 5.)

Petitioner’s allegations are wholly conclusory as they are not accompanied by any supporting facts. The Motion to Vacate is subject to dismissal on those grounds. However, the Court will provide Petitioner an opportunity to amend his § 2255 Motion to cite facts that

support his allegations of ineffective assistance of counsel.

IT IS, THEREFORE, ORDERED that Petitioner shall have twenty-one (21) days from entrance of this Order to file an Amended Motion to Vacate that complies with Rule 2(b)(2) of the Rules Governing Section 2255 Proceedings. Failure to comply with this Order shall result in dismissal of Petitioner's Motion to Vacate.

Signed: October 19, 2017



Max O. Cogburn Jr.
United States District Judge