

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

ISSA B. CONTEH,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

CASE NO. 2:08-CV-119  
CRIM. NO. 2:03-CR-140  
JUDGE GRAHAM  
MAGISTRATE JUDGE KING

OPINION AND ORDER

On October 30, 2009, after an evidentiary hearing, final judgment was issued dismissing the instant motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. §2255. This matter is before the Court on petitioner's request for a certificate of appealability. Doc. No. 214. For the reasons that follow, petitioner's request for a certificate of appealability, Doc. No. 214, is **GRANTED**.

In the instant motion to vacate, set aside, or correct sentence, petitioner asserts that he was denied the effective assistance of counsel because his attorney failed to secure the services of an interpreter, and because his attorney failed to advise him to plead guilty. On June 5, 2009, the Court dismissed the former claim on the merits. Doc. No. 201. On October 30, 2009, after an evidentiary hearing, petitioner's sole remaining claim was likewise dismissed on the merits. Doc. No. 212.

When a claim has been denied on the merits, a certificate of appealability may issue only if the petitioner "has made a substantial showing of the denial of a constitutional

right.” 28 U.S.C. §2253(c)(2). This standard is a codification of *Barefoot v. Estelle*, 463 U.S. 880 (1983). *Slack v. McDaniel*, *supra*. To make a substantial showing of the denial of a constitutional right, a petitioner must show

that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were “ ‘adequate to deserve encouragement to proceed further.’ ” *Barefoot*, 463 U.S. , at 893, and n. 4....

*Id.*

Upon review of the record, the Court concludes that reasonable jurists could debate whether petitioner’s claims should have been resolved in a different manner.

Therefore, petitioner’s request for a certificate of appealability, Doc. No. 214, is

**GRANTED.**

The following issues are certified for appeal:

1. Was petitioner denied the effective assistance of counsel because his attorney failed to secure the services of an interpreter?
2. Was petitioner denied the effective assistance of counsel because his attorney failed to obtain or advise him regarding a guilty plea?

**IT IS SO ORDERED.**

S/ James L. Graham  
JAMES L. GRAHAM  
United States District Judge