

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

BARRY S. MAY, )  
)  
Movant )  
)  
v. ) Civil No. 04-210-P-H  
) Criminal No. 01-92-P-H  
)  
UNITED STATES OF AMERICA, )  
)  
Respondent )

**RECOMMENDED DECISION ON 28 U.S.C. § 2255 MOTION**

Barry May is moving pursuant to 28 U.S.C. § 2255 for relief from his sentence. Barry is serving 174-months for a drug offense. In his amended motion (Docket No. 3) May raises two ineffective assistance of counsel claims. First he faults his attorney for his failure to aggressively move for a full evidentiary hearing vis-à-vis the drug weight attributed to him at sentencing. Second, he claims that counsel was ineffective because he refused to apply for a petition for certiorari review of the First Circuit Court of Appeal's denial of his direct appeal. I recommend that the Court **DENY** May's 28 U.S.C. § 2255 motion as neither ground has merit.

***Discussion***

As the First Circuit Court of Appeals has explained:

The Sixth Amendment guarantees criminal defendants the right to effective assistance of counsel at trial. Strickland v. Washington, 466 U.S. 668, 686 (1984). To demonstrate a violation of this right, a defendant must

show that counsel's performance was constitutionally deficient and that prejudice resulted. See *id.* at 687. The first prong of the analysis, the "performance" prong, is applied with deference to counsel's professional judgment, and is based on what counsel knew or should have known at the time counsel exercised such judgment. See [*United States v.*] *Natanel*, 938 F.2d [302,] 309 [(1st Cir. 1991)]. Counsel's performance will be deemed deficient only if, considering all relevant circumstances, counsel's conduct or omissions fell "outside the wide range of professionally competent assistance." See *Ouber v. Guarino*, 293 F.3d 19, 25 (1st Cir.2002) (quoting *Strickland*, 466 U.S. at 690).

*United States v. Downs-Moses*, 329 F.3d 253, 265 (1st Cir. 2003). May must also "affirmatively prove prejudice": "that there was a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Strickland*, 466 U.S. at 693-94.

#### **A. Ground One: Ineffective Assistance in Advocating against Attribution of Cocaine**

##### ***1. Counsel's efforts apropos drug quantity***

On January 2, 2002, May pled guilty to Count Two of his indictment which alleged that he conspired to distribute and to possess with the intent to distribute more than fifty kilograms of marijuana in violation of 21 U.S.C. § 841(a)(1), § 841(b)(1)(C) and § 846. May stipulated to an attribution of 700 to 1000 kilograms of marijuana to him bringing his offense level to 30, and the quantity of marijuana is not at issue now. However, during the presentence proceedings there was disagreement apropos the attribution of cocaine weight and that ascription remains May's chief bone of contention.

Attachment C to May's amended 28 U.S.C. § 2255 motion is a seven-page letter to the presentence investigation report preparer articulating objections to the report. In that document counsel complained, among other things, of the attribution of any cocaine quantity to May vis-à-vis paragraph 9 of the report. Counsel explained:

In May, 2000, [coconspirator Scott] Barbour did in fact send one kilogram of cocaine from Texas to the Defendant at Steve Case's residence in Maine. The Defendant had no knowledge that Barbour would be sending cocaine, as opposed to marijuana, to him. The first notice the Defendant had that Barbour had sent the cocaine came when the package actually arrived at Case's residence. The Defendant immediately distanced himself from any involvement in the cocaine, which was split up between [coconspirators] Case and [Kevin] Woodward. The Defendant communicated angrily to Barbour (and to Case and Woodward) that he wanted nothing to do with cocaine, and that from that time forward he was going to have nothing to do with the marijuana conspiracy either. His withdrawal from the conspiracy thus took place in May, 2000, upon the unexpected receipt of cocaine at the Case's residence. The Defendant has no knowledge of further shipment of cocaine, and participated in neither receipt nor distribution of any such shipments; nor was the Defendant involved in any way in the proceeds of such distribution. The Defendant believes his account of the cocaine episode is corroborated by the statements of the other conspirators.

Accordingly, the Defendant objects to Par. 9 in its entirety, and respectfully requests that it be deleted from his presentence report. The Defendant has stated from the outset of this case that he is strongly opposed to trafficking cocaine; he communicated that opposition to Barbour and the other conspirators, and withdrew from the conspiracy when it appeared that conspiratorial activities were being expanded to include cocaine trafficking. He could not practically have done more to accomplish his withdrawal from the conspiracy, short of voluntarily turning himself and the other[s] in to law enforcement authorities.

(Am. Sec. 2255 Mem. Attach. C at 5 -6.) Counsel also vigorously objected to other aspects of the presentence report.

As the Court is well aware, May's attorney also aired concern about the attribution of cocaine quantities to his client during the sentencing hearing. At the beginning of the sentencing hearing the prosecutor explained to the Court that "the overriding issue [was] whether and how much cocaine should be factored into the total drug quantity" and indicated that he had reached the following agreement with the defense: "If the government does not prevail on the issue of counting the cocaine within the sentencing matrix, then the defendant would be sentenced on marijuana alone." (Sentencing Tr. at

4.) "If the government prevails on the issue of whether or not the cocaine should be counted," he continued, "then the base offense level would be a 32, and the total drug quantity factoring in both the marijuana and the cocaine would be within a thousand to 3,000 kilograms of marijuana equivalent." (Id. at 5.) Defense counsel then explained that the prosecution did not want the Court to choose any quantity because there was agreement that if May was responsible for any cocaine he was responsible for either a kilo of cocaine, forty-two ounces, or both. (Id. at 5-6.)

When the Court asked if they were to proceed by taking evidence, the prosecutor stated that it was the United States' position that it could establish the record for the Court's sentencing decision as to May based on the testimony that the Court heard at Scott Barbour's trial. (Id. at 6-7.)<sup>1</sup>

The prosecutor indicated that Kevin Woodward testified that May delivered a kilogram of cocaine to Woodward's residence in the first half of May 2000 and that this cocaine was cut up there. (Id. at 7.) Woodward testified that May gave him ten ounces and then, a few days later, seven more ounces. (Id. at 8.) Woodward also testified that he picked up another eight ounces of cocaine from May shortly after Woodward was arrested on drug charges related to the kilo of cocaine. (Id.)

Steven Case testified that Case received the other half of the kilogram that May brought over to Woodward's and that May told him that if he sold twelve ounces he would then give him five ounces of the cocaine for free. (Id.) Case testified that he sold the cocaine, paid May, and stated that he later obtained four or five more ounces from May. (Id.) Case's testimony that he obtained an additional forty-two ounces of cocaine

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<sup>1</sup> Barbour is serving a 420-month sentence for his role in the conspiracy.

directly from Barbour over a relatively short period of time was also highlighted. (Id. at 8-9.)

The prosecutor then summarized for the Court why he thought that May was actively involved in the conspiracy to distribute the kilo of cocaine shipped from Texas by Barbour. (Id. at 9-11.) With respect to the forty-two ounces that Barbour sent to Case the government argued that, while May contended that he withdrew from the conspiracy in May 2000, it was its position that May stayed involved in the conspiracy until the end of the year when he kicked in more money to buy another quantity of cocaine,<sup>2</sup> which was a reinvestment in the conspiracy. (Id. at 11-12.) Another witness, Patrick Cambron, who was extensively connected with May during his presence in Maine, was arrested in September 2000 and he named May as the person who was, present tense, in charge of the Maine end. (Id. at 12-13.) And Woodward indicated that after he was bailed out of detention on the federal charges he continued to buy marijuana from May and Cambron up until the time that he, with May, made the reinvestment in the operation in late 2000. (Id. at 13-14.) The prosecutor underscored the fact that May continued to have regular telephone conversations with Barbour during the post-May 2000 timeframe and May could only explain this by indicating that the pair were good friends and talked of things other than drugs. (Id. at 14.) In the prosecutor's mind there was no question that May in fact rejoined the operation at the end of 2000 which, at that point, was purely a marijuana enterprise. (Id. at 15.) With respect to the forty-two ounces sent to Case by Barbour, the government conceded that May had no direct involvement with this but argued that May was still involved in the criminal conspiracy at the time. (Id.)

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<sup>2</sup> It is unclear if the prosecutor intended to say marijuana rather than cocaine as the record seems to reflect agreement that this reinvestment pertained to a marijuana-only conspiracy.

May's defense attorney argued at length on May's behalf. He emphasized that the United States did not contest that the arrival of the cocaine in May 2000 came as a surprise to May. (Id. at 20.) Counsel conceded that in December 2000 May did reinvest approximately \$2500 to bring the marijuana conspiracy from the back to the front burner again. Counsel pointed out that May had testified that after the one kilo arrived in Maine, May called Barbour and told him, in no uncertain terms, that he wanted nothing to do with the cocaine. (Id. at 21-22.) This reaction stemmed from May's previous involvement with cocaine which resulted in addiction. (Id.)

Counsel explained that in the month following Woodward's arrest and the seizure of the cocaine, May was starting up his business, Maine Core Drilling. He kept in touch with Barbour and the others but these conversations had no connection to drug transactions. (Id. at 22.) "In short," counsel explained:

Mr. May wants to convey to the court in the strongest possible terms that he did not then wish to have any involvement with the cocaine, that he did not in fact have any involvement in the cocaine or any knowledge of it or any ability to foresee that the cocaine transactions were going to go on after that initial key dropped into his lap.

(Id. at 22-23.)

May then made a statement to the Court, the parties agreeing that it was not necessary for him to take the witness stand. May explained that he went to Case's house where the packages of marijuana usually arrived and Case arrived shortly after May did. The FedEx delivery came and May knew by the small size of the box what it was. (Id. at 23.) The first thing May did was to call Barbour and tell him he wanted nothing to do with the cocaine because he had an addiction and he couldn't be around it. (Id. at 23-24.) So, May gave the kilo to Case and Case followed May to Woodward's house and, May

stated, this was "where I—where they broke it up and distributed it between the two of them." (Id. at 24.) Although he was present while it was divvied up, May avowed that he took no part in breaking it up; he was talking on the phone to Barbour telling him he should never have sent it. (Id.) May explained to the Court that he would take responsibility for the marijuana he sold but he had not sold cocaine to anyone. (Id.) It was in the aftermath of this shipment that May set up the bank account for Maine Core Drilling and informed Barbour that he was getting out of the conspiracy. (Id. at 25.) Cambron came to Maine and was supposed to work for May but it soon became apparent that Cambron had a severe problem with cocaine that led May to kick him out of his house. (Id. at 25-26.) This is when Cambron went on his way and assumed the role that May was supposed to play in the conspiracy. (Id. at 26.) The money May used to bail out Woodward and Jackson came all from marijuana proceeds. (Id.)

Counsel then followed up on these statements by May:

I note as a final observation about the cocaine, Your Honor, that the attribution of cocaine to Mr. May has been an issue from the outset of this case. Only after the government agreed that by plea agreement that Mr. May could plead to the marijuana conspiracy count of the indictment were we able to achieve a plea agreement in the case, and it's simply because Mr. May has consistently throughout these proceedings disclaimed any responsibility for the cocaine that was involved.

It may seem a fine point to make such a strong distinction between culpability for conspiring to distribute marijuana and culpability for conspiring to distribute cocaine but it is an important point to Mr. May who sees a distinction there that may be more important to him because of his addiction to cocaine than it is to others observing the situation.

(Id. at 26-27.)

In rebuttal the prosecutor said that in his view it would have been a different story if after the kilogram had been delivered May had turned it over to Case and May had no further involvement with it. (Id. at 30-31.) Yet May's own statement was that he

followed Case over to Woodward's house and was there when they cut it up. (Id. at 31.) If the search has been conducted right there and then, the prosecutor argued, May would have no viable argument that he should not be held accountable for the kilogram of cocaine. (Id.) The prosecutor continued to maintain that May's involvement with the cocaine was more serious than May described, with May setting the terms of payment and so forth. (Id.)

Before the Court recessed, May tugged on his attorney's sleeve to indicate that he wished to say more. (Id. at 32.) May elaborated that his decision to proceed to Woodward's house after the cocaine arrived could be explained by the fact that Woodward was May's friend and that it was known that May had marijuana dealing with Woodward. He stated that not all his visits to Woodward's were drug related; they would go four-wheeling and fishing "all the time." (Id. at 33.) He reiterated that he got out of conspiracy around May 23, 2000, and that he did have contact with Barbour through November or December but that this contact had nothing whatsoever to do with cocaine. (Id. at 33-34.)

## **2. *The sentencing decision***

When the Court came back from recess, it explained its decision to rule against May on all three issues addressed, including the cocaine attribution dispute. The Court explained to May:

First of all, you are a cocaine addict, there's no question about that. I'm sure it is important to you to maintain a mental and emotional distance from cocaine. But you were involved in a drug distribution conspiracy.

I accept the fact that you had no reason to foresee the cocaine was going to turn up, but it did. And when it came, you knew it was cocaine. You could have left right then. You could have turned it in. You didn't do any of that. Instead, you stayed.

You went with it and were there to see it broken up and ultimately, went into the distribution channels. And you were effectively in joint possession, constructive possession of that cocaine at the time, and you are responsible for it.

The guidelines do distinguish between something that somebody else does and whether you could foresee that it does and something which you are personally responsible for here, and you did not distance yourself enough from it, although I understand emotionally in your mind, you think you did, you did not take part in it. But so far as the law is concerned, you are responsible for that. So I only address that first kilo, I don't need to look at the rest because that will make the difference in the base offense level.

(Id. at 35.)

**3. *The First Circuit discussion of drug quantity on direct appeal***

The same attorney represented May in his direct appeal, raising, among other grounds, the propriety of the attribution of cocaine quantity to May. In the First Circuit's opinion it summarized May's grounds and included the following footnote apropos the prosecution's reliance on testimony from the Barbour trial:

At the sentencing hearing, the district court heard the testimony of defense counsel, the government, and May. In addition, the district court judge could take into account the testimony from the Barbour trial, over which he presided and of which a transcript was submitted as evidence at the sentencing hearing. Along with the presentence report, these are all appropriate sources of facts at sentencing. Cf. United States v. Garafano, 36 F.3d 133, 135 (1st Cir.1994) ("Normally the trial court makes its own assessment of the facts that pertain to sentencing, drawing on trial evidence, the presentence report, any evidence offered at the hearing, and other appropriate sources."); see also United States v. Sklar, 920 F.2d 107, 110 (1st Cir.1990) (indicating rules of evidence do not apply at sentencing and that the court may consider "virtually any dependable information").

United States v. May, 343 F.3d 1, 5 n.1 (1st Cir. 2003).

With regards to the cocaine attribution challenge, the Panel reasoned:

Under the United States Sentencing Guidelines, a court is to consider all relevant conduct in determining the quantity of drugs for which a defendant is responsible. U.S.S.G. § 1B1.3. A preponderance of the evidence standard applies to the determination of drug quantity, United

States v. Caba, 241 F.3d 98, 101 (1st Cir.2001), and a sentencing court's drug quantity determination is a factual matter that will not be disturbed on appeal unless it is clearly erroneous. United States v. Innamorati, 996 F.2d 456, 489 (1st Cir.1993).

A defendant may be held "responsible for drug quantities which [he himself] sold, transported or negotiated" as part of a conspiracy. United States v. Miranda-Santiago, 96 F.3d 517, 524 (1st Cir.1996). In addition, a defendant is accountable for "reasonably foreseeable quantities of contraband." U.S.S.G. § 1B1.3, cmt. n.2. In this case, the sentencing court found May responsible for a kilogram of cocaine not because May had any "reason to foresee the cocaine was going to turn up" but rather because he was "effectively in joint possession, constructive possession of that cocaine." The court remarked on May's failure to act after receiving the cocaine, stating:

You could have left right then. You could have turned it in. You didn't do any of that. Instead, you stayed. You went with it and were there to see it broken up and ultimately, went into the distribution channels. And you were effectively in joint possession, constructive possession of the cocaine at the time, and you are responsible for it.

The court's conclusion regarding May's joint and constructive possession of the cocaine is well-supported by the record. According to May's own statement at his sentencing hearing, he was present when Woodward and Case divided the kilogram of cocaine into smaller amounts for further distribution. Further, May personally distributed cocaine to Case and Woodward, and had seven ounces in his own possession for a period of time. See United States v. Georgacarakos, 988 F.2d 1289, 1296 (1st Cir.1993) ("Constructive possession exists if the defendant knows the drugs are available and has the power and intent to exercise dominion and control over them."); see also United States v. Batista-Polanco, 927 F.2d 14, 18-19 (1st Cir.1991) (defendant sitting at table with others while heroin was being packaged was in joint constructive possession of drug). Certainly, by personally transferring control of the cocaine to others and by having an amount of the drug in his own possession however briefly, May was "directly involved" with the drug, which suffices to hold him accountable for the contraband. *See* U.S.S.G. § 1B1.3, cmt. n.2.

Moreover, the delivery of the kilogram of cocaine alone would have sufficed to render the cocaine relevant conduct to May. See United States v. Young, 78 F.3d 758, 763 n. 5 (1st Cir.1996) (transactions involving different drugs but same conspirators and a common scheme made both drugs relevant conduct). May, Barbour, Woodward, and Case were all members of the same criminal enterprise that had been distributing marijuana for almost four years. The same people and process were used for the cocaine as for the marijuana, again reinforcing the district court's decision to attribute the cocaine to May. See U.S.S.G. § 1B1.3, cmt. n.9(A); United States v. Wood, 924 F.2d 399, 404 (1st

Cir.1991) (taking into account conduct that involved the same mode of distribution and transaction type as the charged drug offense).

Because of May's direct involvement with the handling of the kilogram of cocaine and the use of the marijuana distribution system for the cocaine, we find that the district court's inclusion of the cocaine in the drug quantity was not clearly erroneous.

Id. at 6-7.

#### **4. *May's 28 U.S.C. § 2255 argument***

In his 28 U.S.C. § 2255 motion May relays that counsel and he had "significant discourse" on the question of drug quantity. "Despite concerns openly and repeatedly voiced by [May]," his argument goes, "Defense Counsel took a professionally passive stance with respect to drug weight calculations."

Principally, May faults counsel for not requesting an evidentiary hearing "although to have done so would have, at a minimum, allowed the Defense to mount a much more strenuous objection to the weight calculation ultimately adopted by the sentencing court." Because of the significance of drug quantity under the guidelines, May contends, "it was reasonable to expect Defense Counsel to expend an inordinate amount of time and effort in challenging these types of calculations."

"As opposed to taking the lead and mounting a zealous defense," May faults his attorney, for instead, taking "a very passive role," allowing the government to determine "the plain upon which the battle would be fought." May thinks his attorney should have taken "preemptive steps" to challenge the drug calculation in the presentence investigation report and should have, at least, tendered a defense version of the events. Rather, in May's opinion, counsel "simply regurgitated anemic arguments that he knew, or should have known, would fall on deaf ears." May points to the sleeve-tugging

incident prior to the Court's sentencing recess as evidence of May's frustration with his attorney's inadequate efforts on this score.

May laments that, as a rule, too many defense attorney have "fallen prey to a formulaic approach to serving their clients": "An approach that fails to mount a zealous defense on their client's behalf and one which, without argument, falls under the definition of ineffective assistance."

May concedes that an evidentiary hearing may not have guaranteed that a defense version of drug quantities would have been adopted by the Court. He claims, rather, that he had the right to have drug quantities "litigated under a more stringent set of circumstances" and that such a hearing could have "very well" resulted in "a significantly different sentence calculation."<sup>3</sup>

##### ***5. The merits of the claim***

In his 28 U.S.C. § 2255 submissions May nowhere indicates what evidence he would have had counsel introduce had an evidentiary hearing been held. See R. Gov. Sec. 2255 Proceedings 2(b)(2); United States v. McGill, 11 F.3d 223, 225 (1st Cir.1993). What is more, this Court in sentencing May accepted as true his very own representations about what actions he did or did not take vis-à-vis the one kilogram of cocaine. The First Circuit affirmed on the merits, quoting the section of this Court's ruling that limited May's involvement to May's passive description of his actions. And, contrary to May's opinion, counsel's performance relating to the drug quantity demonstrates a very active, coherent, and responsible presentation of the issue in response to the presentence

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<sup>3</sup> May asserts that "such a hearing would have been well within the scope of the evidentiary threshold supported by the Supreme Court in Apprendi v. New Jersey, [530 U.S. 466 (2000)]." This mention of Apprendi does not raise an ineffective assistance claim for a failure to mount an Apprendi-based Sixth Amendment challenge to his sentencing.

investigation report and during the sentencing hearing. I disagree with May's description of his efforts as passive, apathetic, and cookie-cutter. This claim, though earnestly argued by May, has no merit.

**B. The Failure to File for Certiorari Review**

In advancing his claim concerning the failure of his attorney to file for certiorari review, May points to his attorney's letter of October 6, 2003, in which counsel explains that he could identify no meritorious ground for seeking review from the United States Supreme Court and that he was declining to file a petition for certiorari in May's case. (Amended Sec. 2255 Mot. Attach. B.) In this letter counsel explained that if May would like to proceed with petitioning for certiorari May must notify counsel and counsel would advise the First Circuit which would then need to act on counsel's motion to withdraw. Counsel indicated that May had ninety days from entry of judgment to file his petition.

The following entry appears on the docket of the First Circuit:

10/28/03 ORDER. Chief Judge Michael Boudin, Judge Juan R. Torruella, and Judge Jeffery R. Howard. Counsel for defendant-appellant, who was appointed pursuant to the Criminal Justice Act, 18 U.S.C. § 3006A, has submitted a motion for leave to withdraw. Counsel states that, upon review of this court's decision on appeal, he has concluded that filing a petition for a writ of certiorari in this case would be frivolous. Counsel certifies that he has advised defendant-appellant of his conclusion that a petition would be frivolous and that he has further advised defendant-appellant of the time in which he must apply for a writ if defendant-appellant elects to take such action. Defendant-appellant has notified counsel that he wishes to apply for certiorari. Review on writ of certiorari is not a matter of right, but of judicial discretion. Sup. Ct. R. 10. Appellant has no federal constitutional right to counsel when pursuing a discretionary appeal on direct review of his conviction. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987). Accordingly, we grant counsel's motion to withdraw. Local Rule 46.5(c). Defendant-appellant, however, may, if he chooses, file a pro se petition for a writ of certiorari. That petition must be filed with the clerk of the Supreme Court within ninety days after the entry of the judgment. Sup. Ct. R. 13. Judgment entered on September 4, 2003. It would appear, therefore, that should defendant/appellant choose to file a

pro se petition, he must do so on or before December 4, 2003. Appellant may apply for an extension of time to file a petition for certiorari, but an application to extend the time to file a petition for a writ of certiorari "is not favored." Sup. Ct. R. 13.5. An application for an extension of time must be submitted "at least 10 days before the specified final filing date." Sup. Ct. R. 30.2. (cmpa) [02-2039]

May's argument is that counsel refused to petition for certiorari review on May's behalf and that this was a clear dereliction of duty. He cites only to an interim recommendation of the Judicial Conference's Committee to Implement the Criminal Justice Act of 1964 which states that counsel should advise the defendant of his right to seek further review by the filing of a petition for certiorari review and that counsel should file such a petition if requested by the defendant.

Little needs to be said on this ground. The letter by counsel and the order by the First Circuit Court of Appeals reveals that all the 'i's were dotted and the 't's were crossed in assuring that May was made aware of his right to seek review by the Supreme Court despite counsel's refusal to do so, the timeframe for doing so, and the limit on his constitutional right to counsel. The committee's interim 1965 recommendation does not carry the day for May.

### ***Conclusion***

For these reasons I recommend that the Court **DENY** May's 28 U.S.C. § 2255 motion.

### **NOTICE**

A party may file objections to those specified portions of a magistrate judge's report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) for which *de novo* review by the district court is sought, together with a supporting memorandum, within ten (10) days of being served with a copy thereof. A responsive

memorandum shall be filed within ten (10) days after the filing of the objection.

Failure to file a timely objection shall constitute a waiver of the right to *de novo* review by the district court and to appeal the district court's order.

January 24, 2005.

/s/Margaret J. Kravchuk  
U.S. Magistrate Judge

MAY v. USA

Assigned to: JUDGE D. BROCK HORNBY  
Referred to: MAG. JUDGE MARGARET J.  
KRAVCHUK  
Related Case: [2:01-cr-00092-DBH](#)  
Cause: 28:2255 Motion to Vacate / Correct Illegal  
Sentenc

Date Filed: 09/24/2004  
Jury Demand: None  
Nature of Suit: 510 Prisoner:  
Vacate Sentence  
Jurisdiction: U.S. Government  
Defendant

**Plaintiff**

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represented by **BARRY S MAY**  
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