

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

JONATHAN ANTHONY REID,

Petitioner,

v.

Case No.: 2:22-cv-735-SPC-NPM

Case No.: 2:20-cr-84-SPC-NPM

UNITED STATES OF AMERICA,

Defendant.

\_\_\_\_\_/

**ORDER**

Before the Court is the United States' Motion to Compel Former Defense Counsel to Disclose Substance of Communications and Provide Responsive Affidavit to the United States (Doc. 5).<sup>1</sup>

Jonathan Reid was convicted of possession of a firearm and ammunition by a convicted felon and sentenced to life in prison, and he seeks relief under 28 U.S.C. § 2255. Reid claims his trial counsel, Joseph Viacava, was constitutionally ineffective because he failed to timely file a notice of appeal and transcript order form, resulting in dismissal of Reid's appeal. (Doc. 1). The United States asks the Court to order Viacava to provide an affidavit addressing Reid's claim, along with any relevant documents.

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<sup>1</sup> This order cites to documents from Case No. 2:22-cv-604-SPC-NPM are cited as Doc. \_\_.


By alleging Viacava provided ineffective assistance of counsel, Reid has waived any privilege that applied to his conversations with Viacava relating to his § 2255 claim. *See Johnson v. Alabama*, 256 F.3d 1156, 1178 (11th Cir. 2001). What is more, the United States cannot respond to—and the Court cannot fairly evaluate—Reid’s § 2255 motion without Viacava’s testimony.

Accordingly, it is now

**ORDERED:**

By **November 28, 2022**, Joseph G. Viacava shall provide the United States (1) an affidavit addressing the claims in Reid’s § 2255 motion, including the reasons for any untimely filings and a description of any communications with Reid about appealing his conviction; (2) any records of such communications; and (3) any other materials relating to Reid’s claims.

**DONE and ORDERED** in Fort Myers, Florida on October 13, 2022.

  
SHERI POLSTER CHAPPELL  
UNITED STATES DISTRICT JUDGE

SA: FTMP-1

Copies: All Parties of Record  
Joseph Viacava ([joeviacavalaw@gmail.com](mailto:joeviacavalaw@gmail.com))