

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

JONATHAN ANTHONY REID,

Petitioner,

v.

Case No.: 2:22-cv-604-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 Provide Further Information (Doc. 5).¹

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). At the United States' request, the Court ordered Viacava to provide an affidavit addressing Reid's claim, along with any relevant documents. (Doc. 6). Viacava partially complied by filing an unsworn statement that generally describes his

¹ This order cites to documents from Case No. 2:22-cv-604-SPC-NPM are cited as Doc. _ and documents from Case No. 2:20-cr-84-SPC-NPM as Cr-Doc. _.

post-trial interactions with Reid. (Cr-Doc. 90). But Viacava's statement does not directly address Reid's allegations that (1) he asked Viacava to timely file a notice of appeal and (2) Viacava failed to timely file a transcript order form. Viacava's statement is thus insufficient to comply with the Court's October 17, 2022 Order (Doc. 6).

Accordingly, it is now

ORDERED:

United States' Motion to Compel Former Defense Counsel to Provide Further Information (Doc. 5) is **GRANTED**. By **November 28, 2022**, Joseph G. Viacava shall provide the United States (1) an affidavit (or unsworn declaration that complies with 28 U.S.C. § 1746) 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. **The affidavit must directly address each of Reid's claims.**

DONE and ORDERED in Fort Myers, Florida on November 23, 2022.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

SA: FTMP-1

Copies: All Parties of Record

Joseph Viacava (joeviacavalaw@gmail.com)