

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA :  
 :  
 v. : No. 99-CR-622-1  
 :  
 CHARLES WILSON :

**ORDER – MEMORANDUM**

Ludwig, J.

AND NOW, this 11<sup>th</sup> day of January, 2002, petitioner Charles Wilson’s *pro se* motion to vacate his conviction under 28 U.S.C. § 2255 is denied.

Petitioner’s trial counsel, Rossman D. Thompson, Jr., exercised reasonable professional judgment in deciding not to file a motion to suppress the firearm and ammunition seized from petitioner upon his arrest.<sup>1</sup> As Mr. Thompson testified without contradiction at an evidentiary hearing on October 11, 2001, potential witnesses would probably have been unfavorable to petitioner,<sup>2</sup> and litigating the motion would have: 1) caused the government to refuse to accept petitioner’s guilty plea; 2) jeopardized petitioner’s downward adjustment for acceptance of responsibility; and 3) risked the government’s motion for an upward adjustment for obstruction of justice. Tr. 10/11/01 at 13-14.

During cross-examination of Mr. Thompson at the October 11, 2001 hearing,

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<sup>1</sup>Under Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984), ineffective assistance requires a showing that: 1) “counsel’s representation fell below an objective standard of [professional] reasonableness;” and 2) “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Id. at 688, 694, 104 S.Ct. 2052.

<sup>2</sup>Mr. Thompson testified that witnesses identified by petitioner would either contradict or not support his version of the facts and that there was no other apparent basis for impeaching the arresting officer’s testimony. Tr. 10/11/01 at 8-10.

petitioner disputed Mr. Thompson's testimony that he visited petitioner four to seven times in prison. Id. at 14. Petitioner asserts that Mr. Thompson visited him just once and proffers copies of a purported inmate visitor log showing one visit. Id. at 16-18. This contention, even if true, is not enough to show ineffective assistance of counsel. According to Mr. Thompson's uncontested testimony, he repeatedly spoke with petitioner by telephone and communicated by mail – and discussed the motion to suppress.<sup>3</sup> Id. at 14-15. Under all the evidence, it can not be said that Mr. Thompson did not provide reasonably professional representation.

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Edmund V. Ludwig, J.

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<sup>3</sup>Mr. Thompson testified that after this discussion petitioner “was of the view that he would plead guilty and he understood that the Government was not prepared to enter into a Zudick plea [allowing him to plead guilty and still litigate the suppression motion]....” Id. at 15.