

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

UNITED STATES OF AMERICA	:	CRIMINAL NO. 00-635
	:	
v.	:	CIVIL NO. 08-1386
	:	
JOSE BRITO	:	

**MEMORANDUM AND ORDER**

The analysis of petitioner’s claims as set forth in the government’s response accurately explains why the petitioner cannot establish the prejudice prong of the well known Strickland v. Washington, 466 U.S. 668 (1984) test.

As petitioner points out in his reply to the government’s response, this court is “familiarized with the case” (p. 1 of reply).

What petitioner fails to point out is why the government is incorrect in asserting he has suffered no prejudice as a result of counsel’s alleged error and also why the court at this late date should hold a hearing on what petitioner says was counsel’s offer of “a treat transfer to Dominican Republic to serve his sentence” (p. 12 of reply). This preposterous last minute assertion in the procedural history of this case does not warrant a hearing.

No reasonable jurist would find the assessment of this court that there is a lack of any substantial showing of the denial of any constitutional right by petitioner to be debatable or wrong.

An order follows:

**AND NOW**, this 30<sup>th</sup> day of July, 2008, it is hereby **ORDERED** that Petitioner’s Motion Under 28 U.S.C. § 2255 (Docket No. 114) is **DENIED**.

As set forth above, no certificate of appealability will issue.

BY THE COURT:

*s/ Ronald L. Buckwalter*  
RONALD L. BUCKWALTER, S.J.