

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

Plaintiff,

v.

TIMOTHY ROBINSON,

Defendant.  
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ORDER

11-cv-459-bbc

10-cr-152-bbc-1

Defendant Timothy Robinson has filed a timely motion for post conviction relief under 28 U.S.C. § 2255, contending that his conviction was unlawful because he was denied the assistance of constitutionally adequate counsel at the trial stage. He alleges in vague terms that the government would not have been able to prove that the drug he was accused of intending to distribute was crack cocaine but that his counsel told him it was in his best interest to plead guilty. He also alleges that he asked his trial counsel to question the alleged misconduct of one of the agents in his case and he says that the drug weights were wrong.

In its present form, defendant's motion would have to be denied because he has not alleged enough information about his counsel's actions to show that his counsel did not meet

the minimum standard of competency required of defense counsel under the Constitution. Defendant does not explain why he thinks he had a defense against the charge of possessing crack cocaine with the intent to distribute it or what his counsel told him about the strength of such a defense. He does not say what his counsel's response was when he asked him to investigate the possible misconduct of one of the agents involved in the investigation of his case and why such an investigation would have shown that the government had no case against him. Finally, he does not say what was wrong about the drug weights and whether he discussed the problems with the weights with his trial counsel.

Rather than dismiss this motion outright for defendant's failure to show that his conviction was invalid, I will give defendant an opportunity to amend it, to allege facts sufficient to show that he has a plausible claim of ineffectiveness of counsel. Defendant should set out in detail exactly what his claims are, why he thinks that the government would not have been able to prove him guilty, what he discussed with his counsel about the claims and what his counsel said to him in response. He should explain why he would not have pleaded guilty but would have gone to trial had his attorney given him better advice and he should explain what information his attorney would have obtained had he investigated the alleged misconduct of the agent. Once he has submitted this information, I will review it to determine whether defendant has a possible claim for relief.

ORDER

IT IS ORDERED that defendant Timothy Robinson may have until July 23, 2011, in which to file supplemental information supporting his motion for post conviction relief, setting forth adequate detail to allow the court to determine whether he has stated a claim for relief. If defendant does not submit the additional information by July 23, 2011, the motion will be dismissed for his failure to state a claim for relief.

Entered this 6<sup>th</sup> day of July, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB  
District Judge