

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

SHAWN LEE KOEHLER,

Petitioner,

v.

MEMORANDUM AND ORDER
05-C-208-S
01-CR-184-S-01

UNITED STATES OF AMERICA,

Respondent.

Petitioner Shawn Koehler moves to vacate her sentence pursuant to 28 U.S.C. §2255. This motion has been fully briefed and is ready for decision.

Defendant moves to vacate her sentence based on ineffective assistance of counsel. On the information provided by the government the Court finds that petitioner's counsel Attorney David Ham failed to provide information to the Court concerning her February 13 statement made to FBI Agent Scott Pulver which may have affected defendant's sentence. This statement provided specific information concerning her husband's robbery of a bank in Blaine, Minnesota. Apparently, as a result of this statement her husband pled guilty to the Blaine bank robbery.

The Court will grant petitioner's motion under 28 U.S.C. § 2225 and schedule a resentencing to consider this information which it did not have at sentencing when denying the government's motion for a downward departure for substantial assistance.

The Court will appoint counsel. A copy of this order is being forwarded to Federal Defender Services, Inc. which will assign counsel for petitioner. Counsel should then notify the Court so resentencing may be scheduled.

ORDER

IT IS ORDERED that petitioner's motion under 28 U.S.C. § 2255 is GRANTED and resentencing will be scheduled.

IT IS FURTHER ORDERED that counsel is APPOINTED; Federal Defender Services, Inc. to assign and advise.

Entered this 15th day of June, 2005.

BY THE COURT:

/s/

JOHN C. SHABAZ
District Judge