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CV05-0659

APR 13 2005

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WESTERN DISTRICT OF LOUISIANA
LAFAYETTE, LOUISIANA

MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT SENTENCE BY A PERSON IN FEDERAL CUSTODY

SECP

JUDGE MELANÇON

United States District Court		District
Name (under which you were convicted): Gregory James Caton		MAGISTRATE JUDGE HILL Docket or Case No.: 04-20075
Place of Confinement: Beaumont FCI - Low		Prisoner No.: 07245-035
UNITED STATES OF AMERICA		Movant (include name under which you were convicted) v. Gregory James Caton

MOTION

- (a) Name and location of court that entered the judgment of conviction you are challenging: U.S. District Court, Western District of Louisiana, Lafayette-Opelousas Division

(b) Criminal docket or case number (if you know): 04-20075 / 03-20092
- (a) Date of the judgment of conviction (if you know): August 24, 2004

(b) Date of sentencing: August 24, 2004
- Length of sentence: 33 Months
- Nature of crime (all counts): Count one, mail fraud; 18 USC § 1341,2; Count two, introduction of unapproved new drug into interstate commerce, 21 USC § 331 (d), 355 (a), and 333 (a)(2); Count three, forfeiture 18 USC § 981 (a)(1)(c) and 28 USC § 2461(c).
- (a) What was your plea? (Check one)

(1) Not guilty (2) Guilty (3) Nolo contendere (no contest)

(b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to? N/A
- If you went to trial, what kind of trial did you have? (Check one) Jury Judge only N/A

- 7. Did you testify at a pretrial hearing, trial, or post-trial hearing? Yes No
- 8. Did you appeal from the judgment of conviction? Yes No
- 9. If you did appeal, answer the following:

(a) Name of court: N/A

(b) Docket or case number (if you know): N/A

(c) Result: N/A

(d) Date of result (if you know): N/A

(e) Citation to the case (if you know): N/A

(f) Grounds raised: N/A

(g) Did you file a petition for certiorari in the United States Supreme Court? Yes No

If "Yes," answer the following:

(1) Docket or case number (if you know): N/A

(2) Result: N/A

(3) Date of result (if you know): N/A

(4) Citation to the case (if you know): N/A

(5) Grounds raised: N/A

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications concerning this judgment of conviction in any court?
Yes No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: N/A

(2) Docket or case number (if you know): N/A

(3) Date of filing (if you know): N/A

(4) Nature of the proceeding: _____ N/A

(5) Grounds raised: _____ N/A

(6) Did you receive a hearing where evidence was given on your motion, petition, or application? Yes No N/A

(7) Result: _____ N/A

(8) Date of result (if you know): _____

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court: _____ N/A

(2) Docket or case number (if you know): _____ N/A

(3) Date of filing (if you know): _____ N/A

(4) Nature of the proceeding: _____ N/A

(5) Grounds raised: _____ N/A

(6) Did you receive a hearing where evidence was given on your motion, petition, or application? Yes No N/A

(7) Result: _____ N/A

(8) Date of result (if you know): _____ N/A

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition: Yes No N/A

(2) Second petition: Yes No N/A

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not: N/A

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: Counsel failed to file requested appeal

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):
-- See Attached Memorandum Brief --

(b) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why: Ineffective assistance of counsel

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: N/A

Name and location of the court where the motion or petition was filed: N/A

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why: Ineffective
assistance of counsel

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No N/A

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: N/A

Name and location of the court where the motion or petition was filed: N/A

Docket or case number (if you know): N/A

Date of the court's decision: N/A

Result (attach a copy of the court's opinion or order, if available): N/A

(3) Did you receive a hearing on your motion, petition, or application?

Yes No N/A

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No N/A

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes No N/A

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: N/A

Docket or case number (if you know): N/A

Date of the court's decision: N/A

Result (attach a copy of the court's opinion or order, if available): N/A

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: N/A

GROUND THREE: Counsel's cumulative errors violated due process rights

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):
-- See Attached Memorandum Brief --

(b) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue?
Yes No

(2) If you did not raise this issue in your direct appeal, explain why: Ineffective assistance of counsel

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?
Yes No

(2) If your answer to Question (c)(1) is "Yes," state:
Type of motion or petition: N/A
Name and location of the court where the motion or petition was filed: N/A
Docket or case number (if you know): N/A
Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): N/A

(3) Did you receive a hearing on your motion, petition, or application?

Yes No N/A

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No N/A

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes No N/A

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: N/A

Docket or case number (if you know): N/A

Date of the court's decision: N/A

Result (attach a copy of the court's opinion or order, if available): N/A

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: N/A

GROUND FOUR: N/A

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):
N/A

(b) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes No N/A

(2) If you did not raise this issue in your direct appeal, explain why: N/A

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No N/A

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: N/A

Name and location of the court where the motion or petition was filed: N/A

Docket or case number (if you know): N/A

Date of the court's decision: N/A

Result (attach a copy of the court's opinion or order, if available): N/A

(3) Did you receive a hearing on your motion, petition, or application?

Yes No N/A

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No N/A

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes No N/A

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: N/A

Docket or case number (if you know): N/A

Date of the court's decision: N/A

Result (attach a copy of the court's opinion or order, if available): N/A

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: N/A

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: All grounds in 2255 have not been presented due to ineffective assistance of Counsel

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the judgment you are challenging? Yes No If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. N/A

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: Lewis O. Unglesby, 246 Napoleon St., Baton Rouge, LA 70802

(b) At arraignment and plea: Same

(c) At trial: Same

(d) At sentencing: Same

(e) On appeal: N/A

(f) In any post-conviction proceeding: Pro se

(g) On appeal from any ruling against you in a post-conviction proceeding: Pro se

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time? Yes No

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: N/A

(b) Give the date the other sentence was imposed: N/A

(c) Give the length of the other sentence: N/A

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes No

Therefore, movant asks that the Court grant the following relief: _____
-- See Attached Memorandum Brief --

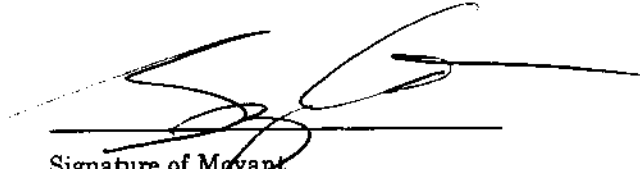
or any other relief to which movant may be entitled.

Pro Se

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on April 8,
2005 (month, date, year).

Executed (signed) on April 8, 2005 (date).



Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion. _____

IN FORMA PAUPERIS DECLARATION

[Insert appropriate court]

United States District Court
Western District of Louisiana
Office of the Clerk
800 Lafayette St., Suite 2100
Lafayette, LA 70501

Re: USA v Gregory James Caton; USDC No.04-²⁰⁰⁷⁵~~200092~~

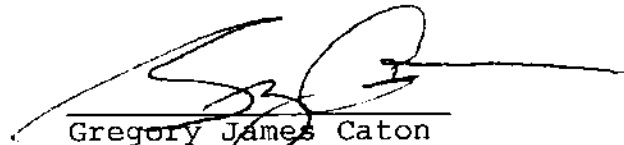
Dear Clerk,

Enclosed you will find an original and two copies of my 28 USC §2255 and memorandum brief in support. Please file this for review by the district judge.

I am also enclosing a SASE ^{No envelope after} for you use in returning to me a filed stamped copy of the foregoing documents. Thank you!

Date: 4-8-05

Sincerely,



Gregory James Caton
Reg. No. 07245-035
P.O. Box 26020
Beaumont, TX 77720-6020

Certified #7004 2510 0004 2935 5768

Gregory James Caton
Reg. No. 07245-035
Federal Correctional Complex TR
P.O. Box 26020
Beaumont, TX 77720-6020

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