

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 21-CR-239-GKF

ALETA NECOLE THOMAS,

Defendant.

**Government's Motion for an Order
Recognizing that Defendant has waived her
Attorney-Client Privilege**

The government moves this Court for an Order recognizing that the defendant, Aleta Necole Thomas, waived her attorney-client privilege with her former attorney, Keith A. Ward, by alleging that he rendered ineffective assistance of counsel in connection with her sentencing.

1. Ms. Thomas filed a motion under 28 U.S.C. § 2255, raising claims that Mr. Ward, rendered ineffective assistance of counsel. (Dkt. # 125).

2. This Court has directed the government to respond to Ms. Thomas's § 2255 motion. (Dkt. # 148). The undersigned attorney contacted counsel for Ms. Thomas on August 31, September 8, and September 12 about Ms. Thomas's opposition or concurrence with this motion. The undersigned attorney included a draft of this motion in the first communication to Ms. Thomas's attorney.

3. On August 31, Ms. Thomas's counsel responded to the undersigned attorney's email communication and stated he would confirm with Ms. Thomas as soon as possible. Since this time, Ms. Thomas's attorneys have not responded to phone calls or email communications.

4. On June 7, 2022, this Court sentenced Thomas to 30 months of imprisonment for Counts 3 and 4 to run concurrently. Ms. Thomas is currently incarcerated.

5. The government has contacted Mr. Ward to obtain an affidavit responding to Ms. Thomas's allegations. Mr. Ward requests the government obtain an order stating that Ms. Thomas has waived the attorney-client privilege as to the claims in her § 2255 motion, so that Mr. Ward may prepare such affidavit.

6. By raising claims of ineffective assistance of counsel, Ms. Thomas has waived her attorney-client privilege. *United States v. Pinson*, 584 F.3d 972, 977-78 (10th Cir. 2009) ("we hold that when a habeas petitioner claims ineffective assistance of counsel, he impliedly waives attorney-client privilege with respect to communications with his attorney necessary to prove or disprove his claim.").

THEREFORE, the government moves this Court for an order recognizing that Ms. Thomas has waived her attorney-client privilege with Mr. Ward, in the instant case, so counsel may fully respond to the allegations of ineffective assistance of counsel against him.

RESPECTFULLY SUBMITTED,

CLINTON J. JOHNSON
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Certificate of Service

I certify that on September 13, 2022, I electronically transmitted the foregoing to the Clerk of the Court using the ECF System for filing to the following ECF registrants.

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/s/ Kristin F. Harrington
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