

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

FILED
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
2024 MAR -6 A 10:00

United States District Court		District	CLERK <u>OK</u> S.D. DIST. OF GA.
Name (under which you were convicted): Dara Buck		Docket or Case No: 4:22CR00065-1	
Place of Confinement: FPC Alderson		Prisoner No: 10895-510	
Movant	V.	United States of America	

MOTION

1. (a) Name and location of court that entered the judgment of conviction you are challenging:

**US District Court Southern District of Georgia
Savannah**

(b) Criminal docket or case number (if you know): **4:22CR00065-1**

2. (a) Date of the judgment of conviction (if you know): _____

(b) Date of sentencing: **5 January 2023**

3. Length of sentence: **42 months**

4. Nature of crime (all counts):

1 count of conspiracy - Fraud

5. (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?

6. If you went to trial, what kind of trial did you have? (Check one) Jury ☐ Judge Only ☒

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: _____

(b) Docket or case number (if you know): _____

(c) Result: _____

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

(e) Citation of the case (if you know): _____

(f) Grounds raised: _____

(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): _____

(2) Result: _____

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

(4) Citation to the case (if you know): _____

(5) Grounds raised: _____

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: _____

(2) Docket of case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐ No ☒

(7) Result: _____

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

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

(1) Name of court: _____

(2) Docket of case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐ No ☒

(7) Result: _____

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

(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 ☒

(2) Second petition Yes ☐ No ☒

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

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: Validity of Conviction

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

My attorney did not have jurisdiction to represent me in the state of Georgia

(b) Direct Appeal of Ground One:

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

Yes ☐ No ☒

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

My attorney refused

(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: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

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

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

Yes ☐ No ☒

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

Yes ☐ No ☒

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

Yes ☐ No ☒

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

Name and location of the court where the appeal was filed:

Docket case number (if you know): _____

Date of the court's decision: _____

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

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

GROUND TWO: Ineffective Counsel

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

Please see attachment

(b) **Direct Appeal of Ground Two:**

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

Yes ☐ No ☒

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

(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: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

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

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

Yes ☐ No ☒

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

Yes ☐ No ☒

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

Yes ☐ No ☒

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

Name and location of the court where the appeal was filed:

Docket case number (if you know): _____

Date of the court's decision: _____

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

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

GROUND THREE: Sentence Disparity

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

Please see attachment

(b) Direct Appeal of Ground Three:

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

Yes ☐ No ☒

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

(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: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

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

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

Yes ☐ No ☒

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

Yes ☐ No ☒

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

Yes ☐ No ☒

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

Name and location of the court where the appeal was filed:

Docket case number (if you know): _____

Date of the court's decision: _____

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

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

GROUND FOUR: _____

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

(b) Direct Appeal of Ground Four:

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

Yes ☐ No ☐

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

(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: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

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

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

Yes ☐ No ☐

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

Yes ☐ No ☐

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

Yes ☐ No ☐

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

Name and location of the court where the appeal was filed: _____

Docket case number (if you know): _____

Date of the court's decision: _____

Result: (attach a copy of the court's opinion or order if available): _____

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

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:

None

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 or proceeding, and the issues raised:

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: _____

(b) At arraignment and plea: _____

(c) At trial: _____

(d) At sentencing: _____

(e) On appeal: _____

(f) In any post-conviction proceeding: _____

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

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: _____

(b) Give the date of the other sentence was imposed: _____

(c) Give the length of the other sentence: _____

(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 ☐

18. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitation as contained in 28 U.S.C § 2255 does not bar your motion.* (see below) _____

Please see attachment

*The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. §2255, paragraph 6, provides in part that:

A one-year period limitations shall apply to a motion under this section. The limitation period shall run from the latest of:

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;

- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

Therefore, Movant asks that the Court grant the following relief:

VACATE

or any other relief to which movant is entitled.

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 Feb 10, 2024.
(month, date, year)

Executed (signed) on 2/10/24 (date)

Dave Beck
Signature of Movant

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

TRULINCS 10895510 - BUCK, DARA - Unit: ALD-A-B

FROM: 10895510
TO:
SUBJECT: MOTION UNDER 28 U.S.C 2255 TO VACATE
DATE: 02/27/2024 02:59:50 PM

12(a)

Ground 1- VALIDITY OF CONVICTION

My attorney did not have jurisdiction to represent me in the state of Georgia.

Ground 2-INEFFECTIVE COUNSEL

I was never provided a copy of my PSR nor was it ever thoroughly reviewed with me. I was never told about my discovery nor did I ever see it. I was never allowed to read or review my plea deal. I was never offered a safety valve. When I asked about the information in my plea deal prior to signing it, I was told it was in my best interest for my family to just sign it. I asked to take my case to trial but I was threatened with a 20 year sentence. After my sentencing I asked to appeal my case for 13 days straight. My lawyer did not acknowledge me until day 14 saying he saw no reason to appeal anything. After my self surrender I was not able to make any contact with my attorney for the entire nine months of my time served to date. All deals made between my attorney and the prosecution team was done without my knowledge. I was told that I was taking a plea deal for helping my husband and several others to commit fraud. After reviewing my PSR in prison it states I took a guilty plea for a leadership role I had no knowledge of. I provided all evidence for the persons responsible for the leadership roles in my case. On the day of my sentencing, the prosecutor that worked my case had only been assigned for five days due to the other prosecutors leaving the case. I never had a fair chance at sentencing.

Ground 3- SENTENCE DISPARITY

There were 178 names to be tried in my case but I was the only person charged and convicted. I was discriminated against and targeted for being a service member. When I asked my lawyer why no one else was charged, he stated that I was the easy target and that's just the way it is. The judge said he intended to make an example out of me.

18 Timelessness In Motion

I have tried making contact with the attorney that I hired for 10 months with no success to file an appeal. I contacted the public defender for my county in December 2023 and he informed me that he could not assist me since my case is federal. January 5 2024 would make a year since my sentencing and the public defender did not respond to my request until January 19 2024. I am now filing without legal representation since my federal attorney has failed to continue representation.

Dara Beck

2-27-24

I filed for a compassionate release in December 2023 due to the incapacitation of my family member's caregiver. To date I have not received a response. My children will soon be facing homelessness. Please provide an update or response to my request.

I also filed for the two level reduction being a zero point offender. I have not received a response for that either. Please provide an update to this motion.

Dae Buek
10895-510

Dara Buck 10895-510
Federal Prison Camp
A2-58L
Glen Ray Rd, Box A
Alderson, WV 24910

INSPECTED BY

MAR 06 2024

U.S. Marshals Service/SGA



10895-510
Clerk Of Court
PO BOX 8286
Savannah, GA 31402
United States