

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ABASI S. BAKER,

Defendant.

Case No. 11-20020-01-CM

MEMORANDUM AND ORDER

This case is before the court on defendant Abasi S. Baker's Petition Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence (Doc. 184). Defendant alleges his counsel at trial, Mr. Willis Toney, was ineffective in violation of the Sixth Amendment.

After reviewing all defendant's motion and the government's response, the court determines that an evidentiary hearing is necessary to resolve defendant's 28 U.S.C. § 2255 motion. Specifically, the court is concerned with whether defendant was prejudiced by his trial counsel's failure to file a motion to suppress evidence arising from the government's warrantless placement of a GPS device on the car that defendant had been driving. Put another way, the court is concerned solely with the prejudice prong under *Strickland v. Washington*, 466 U.S. 668 (1984). Accordingly, the court grants defendant's request for an evidentiary hearing in his motion.

IT IS THEREFORE ORDERED that an evidentiary hearing be held concerning this narrow issue on December 8, 2014 at 1:30 P.M.

Dated this 20th day of October, 2014, at Kansas City, Kansas.

s/ Carlos Murguia
CARLOS MURGUIA
United States District Judge