

Appt different counsel

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Richmond Division

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 86-00097-R
)	
JAMES ELMER FORD, JR.)	

ORDER

This matter is before the Court on the defendant's request that a different attorney be appointed to represent him. For reasons stated below, the Court DENIES the request.

The Sixth Amendment does not guarantee an indigent defendant the right to appointed counsel of his choice. Ford v. Israel, 701 F.2d 689 (7th Cir. 1983), cert. denied, 104 S. Ct. 114 (1983). The defendant's request alleges that his court-appointed attorney, Mr. Champlin, "has not performed on my behalf at what I consider the best of his ability or [in] my best interest." These allegations are conclusory at best. They set forth no specific grounds to justify the removal of Mr. Champlin from the case. The Court DIRECTS the defendant and Mr. Champlin to confer regarding Mr. Champlin's representation of the defendant in this matter. The Court expects each attorney appointed by this Court to represent his client to the best of his ability.

Let the Clerk send a copy of this order to all counsel of record and to the defendant.

Richard L. Williams
UNITED STATES DISTRICT JUDGE

DATE

Rule 75
jurisdiction / appeal

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UNITED STATES OF AMERICA)	
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v.)	Criminal No. 86-00097-R
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JAMES ELMER FORD, JR.)	
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ORDER

This matter is before the Court on the defendant's Rule 35 motion for reduction of sentence. The record in this case indicates that the defendant filed a notice of appeal to the United States Court of Appeals for the Fourth Circuit on March 18, 1987. It is uniformly recognized that filing the notice of appeal divests the district court of jurisdiction over all matters involved in the appeal. Griggs v. Provident Consumer Discount Co., 459 U.S. 56, 58 (1982). In addition, regarding Rule 35 motions specifically, courts have held that the district court lacks jurisdiction to entertain such a motion where the defendant has filed a notice of appeal. See United States v. Russell, 776 F.2d 955 (11th Cir. 1985); United States v. Johns, 638 F.2d 222 (10th Cir. 1981)(and cases cited therein). For this reason, the Court ORDERS that the defendant's Rule 35 motion is hereby DISMISSED WITHOUT PREJUDICE. The defendant, if he chooses to do so, may file the motion with this Court pursuant to Rule 35, within 120 days after receipt by this Court of the mandate issued by the Fourth Circuit.

Let the Clerk send a copy of this order to all counsel of record.

DATE

UNITED STATES DISTRICT JUDGE