

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON AND VALDOSTA DIVISIONS**

UNITED STATES OF AMERICA	:	
	:	Case Number 5:08-CR-40
v.	:	
	:	
BROOKS E. BLITCH, III,	:	
Petitioner.	:	

**Government’s Response to Defendant’s
Motion to Vacate Under 2255**

COMES NOW, the United States of America by and through the undersigned United States Attorney and responds to Defendant’s Motion to Vacate as follows, to-wit:

Petitioner Brooks E. Blitch, III, (“Blitch”) was indicted on July 17, 2008, (Doc. # 1). On September 11, 2009, Blitch pleaded guilty (Doc. # 357) to Count Nine of the indictment which charged him with a multi-object conspiracy in violation of Title 18, United States Code, Sections 1341 (“Mail Fraud”), 1343 (“Wire Fraud”), and 1346 (“Honest Services Fraud”). The conspiracy was charged under section 1349. Blitch was sentenced on December 1, 2009, to three years probation, a \$100,000 fine, and a \$100 mandatory assessment fee. (Doc. # 374) The remaining counts were dismissed without prejudice as part of the plea agreement.

On June 24, 2010, the United States Supreme Court issued its opinion in Skilling v. United States, 130 S.Ct. 2896 (2010). On June 13, 2011, Petitioner Blich filed this Motion to Vacate asserting that Skilling authorizes this Court to overturn his guilty plea to Count Nine of the Indictment. (Docs. # 397 and 400). This Petition was timely filed.

The government concedes that Petitioner Blich's plea to Count Nine of the indictment must be vacated under Skilling. The government does not oppose the entry of an Order of this Court vacating the conviction pursuant to the plea of guilty as to Count Nine.

Conclusion

For the foregoing reasons, the government submits that Petitioner's motion should be granted.

RESPECTFULLY SUBMITTED, this 6th day of September, 2011.

MICHAEL J. MOORE
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CERTIFICATE OF SERVICE

I, Jim Crane, hereby certify that on the 6th day of September, 2011, I electronically filed the within and foregoing **Government's Response in Opposition to Defendant's Motion to Vacate Under 2255** with the clerk using CM/ECF system which will send notification of such filing to the following:

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