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UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,) CRIMINAL NO. 1:09-CR-319
)
 Respondent,)
 v.) (RAMBO, S.J.)
)
 SEAN N. HEALY,)
)
 Petitioner.) (ELECTRONICALLY FILED)

**GOVERNMENT'S RESPONSE IN OPPOSITION TO
HEALY'S MOTION TO VACATE HIS SENTENCE
PURSUANT TO 28 U.S.C. § 2255**

Respectfully submitted,

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Date: February 7, 2013

performance could not have been affected by a conflict that did not exist.

As stated above, bald and conclusory allegations do not even warrant a hearing, let alone relief under § 2255. Healy offers no proof as to any of his allegations against Mr. Marino, and for this reason alone, his motion should be denied.

With respect to Healy's claim that Mr. Marino was under investigation by the USAO in the MDPA, government counsel conferred with his superiors in the USAO and has confirmed that Mr. Marino was never under investigation by this office. In addition, this office has communicated with the Executive Office of U.S. Attorneys within the Department of Justice and confirmed that there was no investigation of Mr. Marino by the Department of Justice. Thus, Healy's claims in this respect are totally unsubstantiated.

With respect to Healy's claim that Mr. Marino was campaigning for federal office while representing Healy, there is similarly no proof that this occurred. More importantly, even if it did occur, it would not amount to a conflict of interest. The same can be said for Healy's claim

would get him the best deal, that was information not in the possession of the government. It could not, therefore, be a Brady violation. United States v. Gambino, 838 F. Supp. 744, 747 (S.D.N.Y. 1993) (the government is not required to disclose evidence it does not possess or which it is unaware).

V. CONCLUSION.

Wherefore, for reasons stated above, the Motion to Vacate Pursuant to 28 U.S.C. § 2255 should be denied.

Respectfully submitted,

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s/ Bruce Brandler
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CERTIFICATION OF LENGTH OF BRIEF

It is hereby certified that government's response in opposition to Healy's motion to vacate his sentence contains 5,548 words, as calculated by the word processing software used to create it.

s/ Bruce Brandler
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Assistant U.S. Attorney