

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	CIVIL ACTION NO. 1:02cv76-T
)	WO
WILLIAM C. ABBOTT)	

ORDER

On March 15, 2005 (Doc. 102.), a Report and Recommendation was entered which recommended that the 28 U.S.C. § 2255 motion filed by movant William C. Abbott be denied, as the claims therein entitle him to no relief. There being no objections filed to the Recommendation, an order adopting the Recommendation was entered on April 6, 2005 (Doc. 103), and final judgment was entered the same day (Doc. 104).

On May 2, 2005 (Doc. 105) , Abbott filed a pleading styled as an “Objection to Order and Final Judgment and Motion for Reconsideration.”* In this motion, Abbott states that he was transferred to the United States Penitentiary in Beaumont, Texas, on or around February 9, 2005. He asserts that, consequently, he did not receive notice of this court’s

*Although Abbott’s motion is date stamped “received” on May 9, 2005, the motion was signed by Abbott on May 2, 2005. A *pro se* inmate’s motion is deemed filed on the date it is delivered to prison officials for mailing. *Houston v. Lack*, 487 U.S. 266, 271-72 (1988); *Adams v. United States*, 173 F.3d 1339, 1340-41 (11th Cir. 1999); *Garvey v. Vaughn*, 993 F.2d 776, 780 (11th Cir. 1993). “Absent evidence to the contrary in the form of prison logs or other records, [this court] must assume that [Abbott’s motion] was delivered to prison authorities the day [he] signed it....” *Washington v. United States*, 243 F.3d 1299, 1301 (11th Cir. 2001). In light of the foregoing and without any contradictory evidence, the court assumes that May 2, 2005, should be considered the date of filing for Abbott’s motion.

denial of his 28 U.S.C. § 2255 motion until April 28, 2005. Abbott further asserts that, to this date, he has not received a copy of the Recommendation adopted by the court's order of April 6, 2005. Accordingly, Abbott requests that this court vacate its order and final judgment entered on April 6, 2005, and grant him an extension of time to file objections to the Recommendation entered on March 15, 2005. The court construes Abbott's instant pleading (Doc. 105) to contain a "Motion for Extension of Time."

In light of the foregoing, and for good cause, it is ORDERED that:

1. Abbot's Objection to Order and Final Judgment and Motion for Reconsideration (Doc. 105) are sustained and granted.

2. The Order and Final Judgment entered on April 6, 2005 (Docs. 103 and 104), are VACATED;

3. Abbott's Motion for Extension of Time (Doc. 105) is GRANTED;

4. Abbott is GRANTED an extension of time from April 4, 2005, to and including July 1, 2005, to file his objections to the Recommendation entered on March 15, 2005; and

5. This case is REFERRED back to Magistrate Judge Susan Russ Walker for further proceedings.

In the interest of judicial economy, the CLERK is DIRECTED to provide Abbott with a copy of the Recommendation entered on March 15, 2005.

DONE, this the 13th day of June, 2005.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE