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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,)
)
Plaintiff-Respondent,)
vs.)
Omar Sanchez-Lopez,)
)
Defendant-Movant.)

No. CV-07-0939-PHX-PGR (ECV)
No. CR-05-0999-PHX-PGR

ORDER

Having reviewed *de novo* the Report and Recommendation of Magistrate Judge Voss notwithstanding that no party has filed any objection to the Report and Recommendation, the Court finds that the Magistrate Judge correctly determined that the defendant’s motion, filed pursuant to 28 U.S.C. § 2255, should be denied as having no factual or legal merit.

The petitioner’s first ground, which is that his sentence was incorrectly enhanced by a prior robbery conviction which was too old and did not amount to an aggravated felony, is meritless because (1) his sentence was actually enhanced by a 1996 felony drug trafficking conviction in Georgia which he admitted to during his change of plea, and (2) his explicit and knowing waiver in his plea agreement of any right to challenge his conviction and sentence through an appeal or a § 2255 motion is valid as he has not alleged that his plea was

1 involuntary.

2 The petitioner's second ground, which is that his counsel was ineffective
3 because he did not object to the enhanced sentence, is also meritless even if not
4 waived because there was no legal basis for an objection given the petitioner's
5 admission to the facts supporting the prior felony drug conviction. Therefore,

6 IT IS ORDERED that the Magistrate Judge's Report and Recommendation
7 (doc. #28) is accepted and adopted by the Court.

8 IT IS FURTHER ORDERED that the defendant-movant's Motion Under 28
9 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal
10 Custody (doc. #21) is denied. The Clerk of the Court shall enter judgment
11 accordingly.

12 DATED this 2nd day of February, 2009.

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15 
16 Paul G. Rosenblatt
United States District Judge