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NOT FOR PUBLICATION

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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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Joel Pulido-Trujillo,

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No. CR-05-0170-PHX-FJM

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Plaintiff,

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No. CV-07-1645-PHX-FJM

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vs.

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ORDER

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United States of America,

)

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Defendant.

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The court has before it Pulido-Trujillo’s (movant) motion to vacate, set aside, or correct sentence by a person in federal custody pursuant to 28 U.S.C. § 2255 (doc. 1), and the report and recommendation by the United States Magistrate Judge (doc. 2). No objection to the report and recommendation was filed.

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On December 22, 2005, movant pled guilty to conspiracy to possess with intent to distribute five kilograms or more of cocaine. As part of the plea agreement, movant waived his right to appeal the entry of judgment against him, the imposition of sentence, and the right to collaterally attack his conviction, including a challenge under 28 U.S.C. § 2255. On May 1, 2006, movant was sentenced to 120 months imprisonment, followed by five years of supervised release. On May 9, 2006, movant filed a notice of appeal. The Ninth Circuit Court of Appeals dismissed the appeal in light of the valid appeal waiver. Movant then filed the present § 2255 action.

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