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NOT FOR PUBLICATION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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United States of America,
Plaintiff/Respondent,

) No. CV-09-01484-PHX-FJM
) No. CR-09-00084-PHX-FJM

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vs.

ORDER

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Guadalupe Burgos-Ramos,

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Defendant/Movant.

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The court has before it Guadalupe Burgos-Ramos’s Second Amended Motion to Vacate, Set Aside, or Correct a Sentence pursuant to 28 U.S.C. § 2255 (doc. 8), the United States’ response (doc. 16), an affidavit by movant’s former counsel (doc. 19), and a report and recommendation by the United States Magistrate Judge recommending that the motion be denied (doc 20). Movant did not file a reply or object to the report and recommendation.

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After review, we accept the recommendation of the Magistrate Judge pursuant to Rule 8(b), Rules Governing § 2255 Cases, and deny the motion.

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IT IS THEREFORE ORDERED DENYING movant’s Second Amended Motion to Vacate, Set Aside, or Correct a Sentence (doc. 8).

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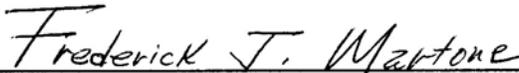
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IT IS FURTHER ORDERED DENYING a certificate of appealability and leave to proceed in forma pauperis on appeal because movant has not made a substantial showing of the denial of a constitutional right.

DATED this 7th day of September, 2010.



Frederick J. Martone
United States District Judge