Sanchez-Castaneda v. United States of America Doc. 8

WO

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

United States of America, Plaintiff/Respondent, vs. Jose Angel Sanchez-Castaneda, Defendant/Petitioner/Movant.	)	No CV 11-1545-PHX-JAT (MHB) CR 04-0011-PHX-JAT **ORDER**

Pending before the Court is Movant's Motion to Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C. § 2255 (Doc. 1). The Magistrate Judge issued a Report and Recommendation ("R&R") (Doc. 7) recommending that the Motion be denied.

Neither party has filed objections to the R&R. Accordingly, the Court hereby accepts the R&R. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985) (finding that district courts are not required to conduct "any review at all . . . *of any issue* that is not the subject of an objection" (emphasis added)); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (*en banc*) ("statute makes it clear that the district judge must review the magistrate judge's findings and recommendations de novo *if objection is made*, but not otherwise" (emphasis in original)); *see also Schmidt v. Johnstone*, 263 F.Supp.2d 1219, 1226 (D. Ariz. 2003).

Accordingly,

IT IS ORDERED that the Magistrate Judge's Report and Recommendation (Doc. 7) is **ACCEPTED and ADOPTED**;

Dockets.Justia.com

IT IS FURTHER ORDERED that Movant's Motion to Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C. § 2255 (Doc. 1) is **DENIED WITH PREJUDICE**; and the Clerk of the Court shall enter judgment accordingly.

IT IS FINALLY ORDERED that pursuant to Rule 11 of the Rules Governing Section 2255 cases, in the event Movant files an appeal, the Court denies issuance of a certificate of appealability because denial of the Motion is based on a plain procedural bar and jurists of reason would not find this Court's procedural ruling debatable. *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

DATED this 21st day of June, 2012.

James A. Teilborg
United States District Judge