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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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10 Juan Castanon-Guel,)
 11 Defendant/Movant,)
 12 v.)
 13 United States of America,)
 14 Plaintiff/Respondent,)

CR 11-01320-PHX-PGR
CIV 12-00014-PHX-PGR (MEA)

ORDER

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Currently before the Court is the Report and Recommendation (Doc. 9) of Magistrate Judge Aspey, based on Juan Castanon-Guel’s Motion to Vacate, Set Aside, or Correct Sentence. In his motion, filed pursuant to 28 U.S.C. § 2255, Castanon-Guel challenges his sentence for Attempted Reentry of a Removed Alien. He alleges that he pleaded guilty based on flawed advice from his attorney and that his sentence was improperly enhanced. Magistrate Judge Aspey recommends that the Court deny Castanon-Guel’s motion. The Court will adopt the report and recommendation.

As Magistrate Judge Aspey found, Castanon-Guel, in his written plea agreement with the United States, waived his right to collaterally attack his convictions and sentences. The sentence imposed was consistent with the terms of the agreement. Castanon-Guel has failed to establish that the waiver of his right to collaterally attack his sentence was not knowing and voluntary.

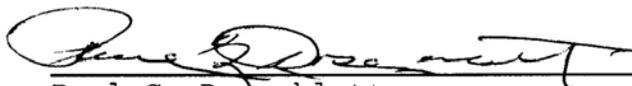
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Therefore, having reviewed *de novo* the Report and Recommendation,
IT IS HEREBY ORDERED that the Magistrate Judge's Report and Recommendation
(Doc. 9) is ACCEPTED and ADOPTED by the Court.

IT IS FURTHER ORDERED DENYING the Motion to Vacate, Set Aside, or Correct
Sentence (Doc. 6).

IT IS FURTHER ORDERED DENYING a Certificate of Appealability and leave to
proceed *in forma pauperis* on appeal because Castanon-Guel has not made a substantial
showing of the denial of a constitutional right.

DATED this 11th day of September, 2012.



Paul G. Rosenblatt
United States District Judge