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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,
Plaintiff/Respondent,
vs.
Jose Gaspar-Ceballos,
Defendant/Movant.

No. CV-12-00205-PHX-PGR (ECV)
No. CR-10-01360-PHX-PGR

ORDER

Having reviewed *de novo* the Report and Recommendation of Magistrate Judge Voss notwithstanding that no party has filed any objections to the Report and Recommendation, the Court finds that the Magistrate Judge correctly determined that the movant's Motion to Vacate, Set Aside of Correct Sentence by a Person in Federal Custody, timely filed pursuant to 28 U.S.C. § 2255, should be denied.

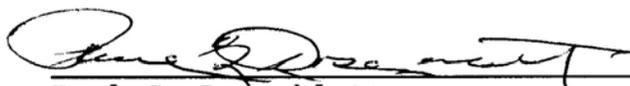
The Court agrees with the Magistrate Judge that the record of the movant's criminal proceeding in no way supports the movant's sole claim that his guilty plea to the charge of reentry by a removed alien in violation of 8 U.S.C. § 1326 was not knowingly and voluntarily entered as a result of his counsel's allegedly deficient representation. The transcripts of the movant's change of plea hearing and of his sentencing (Docs. 27 and 28 in CR-10-01360-PHX-PGR) and the minute entries

1 from those proceedings (Docs. 14 and 15 in CR-10-01360-PHX-PGR) establish that
2 the requirements of Fed.R.CrimP. 11 were fully complied with by the Court, that the
3 movant, with the help of certified court Spanish interpreters, fully understood the
4 proceedings, fully understood his rights, what he was pleading to, and the
5 ramifications of his plea, that he never complained to the Court about his counsel's
6 representation at the time of those proceedings, and that his counsel diligently and
7 properly represented him during both proceedings. Therefore,

8 IT IS ORDERED that movant Gaspar-Ceballos' Motion Under 28 U.S.C. §
9 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody
10 (Doc. 36 in CV-10-01360-PHX-PGR/Doc. 1 in CV-12-00205-PHX-PGR) is denied
11 and that CV-12-00205-PHX-PGR is dismissed. The Clerk of the Court shall enter
12 judgment accordingly.

13 IT IS FURTHER ORDERED that no certificate of appealability shall issue and
14 that leave to appeal *in forma pauperis* is denied because the movant has not made
15 a substantial showing of the denial of a constitutional right.

16 DATED this 17th day of June, 2013.

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19 Paul G. Rosenblatt
United States District Judge