

1 WO
2
3
4
5

6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 United States of America,
10 Plaintiff,

11 vs.

12 Riley Briones, Jr.,
13 Defendant/Movant.
14

No. CV 13-2445-PHX-RCB (BSB)
CR 96-464-PHX-RCB

ORDER

15 On March 25, 2013, Movant Riley Briones, Jr.,¹ who is confined in the Federal
16 Correctional Institution-Phoenix in Phoenix, Arizona, filed with the Ninth Circuit Court
17 of Appeals an application for authorization to file a second or successive 28 U.S.C.
18 § 2255 motion. On November 26, 2013, the Ninth Circuit Court Appeals granted the
19 application and transferred the action to this Court for further proceedings.

20 In his § 2255 Motion, Movant argues that pursuant to the Supreme Court decision
21 in *Miller v. Alabama*, 132 S. Ct. 2455 (2012), he is entitled to a lesser sentence. The
22 Court will call for an answer to the § 2255 Motion.

23 **IT IS ORDERED:**

24 (1) The Clerk of Court must serve a copy of the § 2255 Motion (Doc. 14 in
25 CV 13-2445-PHX-RCB (BSB)) and this Order on the United States Attorney for the
26 District of Arizona.

27 (2) The parties and the Clerk of Court **must file** all documents related to the
28

TERMPRESREF

¹ The Court's docket lists Attorney Sigmund Gerald Popko as counsel for Movant.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

§ 2255 Motion in the **civil case**.

(3) The United States Attorney for the District of Arizona has **60 days** from the date of service within which to answer the § 2255 Motion. The United States Attorney may file an answer limited to relevant affirmative defenses, including but not limited to, statute of limitations, procedural bar, or non-retroactivity. If the answer is limited to affirmative defenses, only those portions of the record relevant to those defenses need be attached to the answer. Failure to set forth an affirmative defense in an answer may be treated as a waiver of the defense. *Day v. McDonough*, 547 U.S. 198, 209-11 (2006). If not limited to affirmative defenses, the answer must fully comply with all of the requirements of Rule 5 of the Rules Governing Section 2255 Cases.

(4) Movant may file a reply within **30 days** from the date of service of the answer to the § 2255 Motion.

DATED this 16th day of April, 2014.



Robert C. Broomfield
Senior United States District Judge