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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Carlos Omar Heredia-Nieblas,
Defendant/Movant,
v.
United States of America,
Plaintiff/Respondent.

No. CV-16-02615-PHX-SRB (BSB)
CR-15-00522-PHX-SRB
ORDER

Movant, Carlos Omar Heredia-Nieblas, filed a Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255 on August 1, 2016. The United States filed a Motion to Dismiss Defendant’s Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a person in Federal Custody on January 5, 2017 and a Motion for a Forty-Five Day Extension of Time to Respond to Defendant’s Motion to Vacate, Set Aside or Correct Sentence Under 28 U.S.C. § 2255. Movant has not filed a response to either motion.

The Magistrate Judge filed her Report and Recommendation on January 30, 2017 recommending that Respondent’s Motion to Dismiss be denied and the Motion to Extend Time be granted. In the Report and Recommendation, the Magistrate Judge advised the parties that they had fourteen days from the date of service of a copy of the Report and

1 Recommendation within which to file specific written objections with the Court. The
2 time to file such objections has expired and no objections to the Report and
3 Recommendation have been filed.
4

5 The Court finds itself in agreement with the Report and Recommendation of the
6 Magistrate Judge.

7 **IT IS ORDERED** adopting the Report and Recommendation of the Magistrate
8 Judge as the Order of this Court. (Doc. 10)


9 **IT IS FURTHER ORDERED** denying Respondent's Motion to Dismiss
10 Defendant's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence
11 by a person in Federal Custody. (Doc. 6)

12 **IT IS FURTHER ORDERED** granting Respondent's Motion for a Forty-Five
13 Day Extension of Time to Respond to Defendant's Motion to Vacate, Set Aside or
14 Correct Sentence Under 28 U.S.C. § 2255. (Doc. 9)

15 **IT IS FURTHER ORDERED** that Respondent's may have 45 days from the date
16 of this Order to respond to Movant's Motion to Vacate, Set Aside, or Correct Sentence
17 pursuant to 28 U.S.C. § 2255.

18 Dated this 21st day of February, 2017.
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Susan R. Bolton
United States District Judge