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

Derek Michael Dewey,  
Petitioner,  
v.  
USA,  
Respondent.

No. CV-16-8293-PCT-PGR (DKD)

**ORDER**

Petitioner Derek Michael Dewey moved for leave to amend his Motion to Vacate, Set Aside, or Correct Sentence under 28 U.S.C. § 2255. (Docs. 1, 5) The United States, Respondent, moved to dismiss Dewey’s Section 2255 Motion and then, in response to his motion to amend, re-urged the motion to dismiss. (Docs. 4, 7) Respondent argues that Dewey’s amendment is futile because his motion was untimely. (Doc. 7) In reply, Dewey argues that his proposed amendment—adding an ineffective assistance of counsel claim for failure to file an appeal—would address Respondent’s untimely argument. (Doc. 8) The Court will permit Petitioner to file an amended Motion in order to add the claim described in his Motion to Amend.

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**IT IS THEREFORE ORDERED** that, within 30 days of the date of this Order, Petitioner Derek Michael Dewey shall file an amended Motion to Vacate, Set Aside, or Correct Sentence under 28 U.S.C. § 2255 to add the claim described in his Motion to Amend.

Dated this 29th day of August, 2017.



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David K. Duncan  
United States Magistrate Judge