

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

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

VICTOR MANUEL CORTES-
YANEZ,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

CASE NO: 13-CV-0222 W
12-CR-3500 W-1

**ORDER DENYING
PETITION FOR WRIT OF
HABEAS CORPUS [DOC. 27]**

On, January 25, 2013, Petitioner filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2255 ("Petition."). [Doc. 27.] As a matter of course, the Court issued a briefing schedule requiring Respondent to file an answer by April 25, 2013. [Doc. 29.] Upon further review, the Court finds it lacks jurisdiction to consider the Petition.

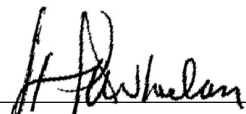
The record establishes that on or about September 11, 2012, Petitioner entered into a fast-track Plea Agreement, and waived both his right to appeal and collaterally attack his conviction and sentence. (*Plea Agreement* [Doc. 16]¶ 11.) The Petition does not raise any challenge to the validity of that waiver. Additionally, having reviewed the Plea Agreement and transcript, the Court finds that Petitioner knowingly and voluntarily waived his right to appeal and collaterally attack his sentence. This Court,

1 therefore, lacks jurisdiction to consider any collateral challenge to his conviction and
2 sentence. See Washington v. Lampert, 422 F.3d 864 F.3d 864, 869–70 (9th Cir. 2005)
3 (recognizing that if sentencing stipulation’s waiver of the right to file a federal habeas
4 petition was valid, district court lacked jurisdiction to hear the case).

5 Accordingly, the Court **DENIES** the Petition [Doc. 27].

6 **IT IS SO ORDERED.**

7
8 **DATED: April 15, 2013**

9
10 
11 _____
12 **HON. THOMAS J. WHELAN**
13 United States District Judge
14 Southern District of California
15
16
17
18
19
20
21
22
23
24
25
26
27
28