

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 8:02-cr-387-T-23EAJ
8:06-cv-764-T-23EAJ

ANGEL OLAYA-CARVAJAL
_____ /

ORDER

Olaya-Carvajal moves to vacate his sentence pursuant to 28 U.S.C. § 2255 (Doc. 1). The court denied all claims (Doc. 11) except Olaya-Carvajal's claim that trial counsel failed to timely file a notice of appeal, which claim was referred to Magistrate Judge Elizabeth A. Jenkins, who conducted a hearing and issued her report (Doc. 19). Neither party filed objections to the report and recommendation. The court independently examined the file and reviewed the report. Upon consideration, the report is adopted, confirmed, and incorporated by reference into this order.

Accordingly, the court adopts the report (Doc. 19). Olaya-Carvajal's motion to vacate sentence (Doc. 1) is **GRANTED**. The clerk shall enter a judgment for defendant and close the civil action.

ORDERED in Tampa, Florida, on April 8, 2009.



STEVEN D. MERRYDAY
UNITED STATES DISTRICT JUDGE