

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDACase No. 10-61283-CIV-MARRA/WHITE  
(06-60357-CR-MARRA)

CORNELIUS BRAYBOY,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.  
\_\_\_\_\_ /**ORDER AND OPINION DENYING MOTION FOR RECONSIDERATION**

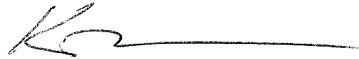
THIS CAUSE is before the Court upon Petitioner's Motion for Reconsideration Pursuant to Federal Rules of Civil Procedure 59(E) [DE 15] and Brayboy's Motion Requesting to Supplement the Supreme Court's Recent Holding in Descamps v. U.S., 133 S. Ct. 2276 (2013) For Support of His Motion for Reconsideration Pending Before This Court [DE 16]. The Court has carefully considered the motions, all relevant law, and is otherwise fully advised in the premises.

To the extent Petitioner places reliance on *Descamps v. United States*, -- U.S. --, 133 S.Ct. 2276, 2580, 2582-83, 2586-87 (2013) ("*Descamps*") for the proposition that his Florida state court conviction under Fla. Stat. § 893.13(1) does not qualify as a "controlled substance offense" under the sentencing guidelines because of the lack of a *mens rea* element, Petitioner's position has been rejected by the Eleventh Circuit Court of Appeals in *United States v. Burton*, - Fed. App'x. -, 13-13340, 2014 WL 1800822 (11th Cir. May 7, 2014). Accordingly, it is hereby

**ORDERED AND ADJUDGED** that Brayboy's Motion Requesting to Supplement the

Supreme Court's Recent Holding in Descamps v. U.S., 133 S. Ct. 2276 (2013) for Support of His Motion for Reconsideration Pending Before This Court [DE 16] is **granted**, but Petitioner's Motion for Reconsideration Pursuant to Federal Rules of Civil Procedure 59(E) [DE 15] is **DENIED**.

**DONE AND ORDERED** in Chambers at West Palm Beach, Palm Beach County, Florida, this 18<sup>th</sup> day of June, 2014.



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KENNETH A. MARRA  
United States District Judge