

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA

FILED
U.S. DISTRICT COURT
AUGUSTA DIV.

2018 AUG 30 PM 2:09

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AUGUSTA DIVISION

ABIZAHÍ GUARDUNO-RIVERA,)
)
 Petitioner,)
)
 v.)
)
 UNITED STATES OF AMERICA,)
)
 Respondent.)

CV 118-040
(Formerly CR 116-034)

ORDER

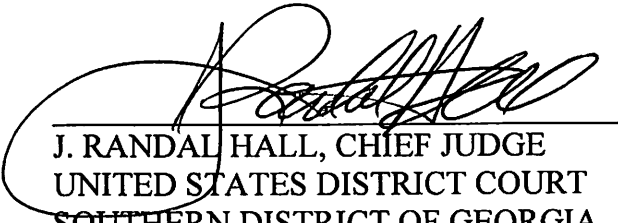
After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge’s Report and Recommendation, to which no objections have been filed. Accordingly, the Court **ADOPTS** the Report and Recommendation of the Magistrate Judge as its opinion. Therefore, the Court **GRANTS** Petitioner’s § 2255 motion as to the out-of-time appeal and **DISMISSES** without prejudice all other claims raised in the § 2255 motion. The Court **VACATES** Petitioner’s judgment in the underlying criminal case. CR 116-034, doc. no. 55. Simultaneous with the entry of this Order, the Court is entering a new Judgment in a Criminal Case that reimposes the same sentence, identical in all respects to the original Judgment, save only for the date of entry.

The Court **HEREBY ADVISES** Petitioner that with the entry of the new Judgment, he shall have all the rights associated with an appeal from any criminal sentence. The Court also specifically advises Petitioner the entry of the new Judgment creates a fourteen-day

period within which Petitioner may prosecute a direct appeal of his criminal conviction. Thus, Petitioner shall have fourteen days from the date of entry of the Judgment to file a notice of appeal. Attorney Wendell E. Johnston, Jr., has been appointed to represent Petitioner on direct appeal. See CR 116-034, doc. no. 80.

Finally, the Court **DIRECTS** the Clerk to **CLOSE** this civil action and **ENTER** an appropriate final judgment in this civil case in favor of Petitioner.

SO ORDERED this 30th day of August, 2018, at Augusta, Georgia.



J. RANDAL HALL, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA