

**In the United States District Court
For the Southern District of Georgia
Brunswick Division**

DAVID CORDOVA,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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CIVIL ACTION NO.: 2:15-cv-119

(Case No.: 2:97-cr-30)

ORDER

Movant David Cordova ("Cordova"), who is currently incarcerated at Hancock State Prison in Sparta, Georgia, filed a Motion to Vacate, Set Aside, or Correct his Sentence pursuant to 28 U.S.C. § 2255 in the Northern District of Georgia. Dkt. No. 1. Because Cordova challenges his conviction and sentence obtained in this Court, the Northern District of Georgia transferred Cordova's Motion to this Court. Dkt. Nos. 4, 5. This Court ordered service of Cordova's Motion on Respondent and directed Respondent to respond to Cordova's Motion. Dkt. No. 12. The Government filed a Response and asserted Cordova's Motion should be dismissed as untimely. Dkt. No. 14. On June 22, 2016, Cordova filed a Motion to Dismiss his Section 2255 Motion, stating "it is clear he has made a mistake

in filing his § 2255 after the [expiration of] the one year statute of limitations." Dkt. No. 19, p. 2. Respondent has not responded to Petitioner's Motion to Dismiss.

Federal Rule of Civil Procedure 41(a)(2), "an action may be dismissed at the [petitioner's] request only by court order, on terms that the court considers proper. Unless the order states otherwise, a dismissal under this paragraph . . . is without prejudice." Rule 41 applies to Section 2255 proceedings.

Descent v. United States, Nos. 8:03-CV-2658; 8:00-CR-186, 2006 WL 1152172, at *1 (M.D. Fla. Apr. 28, 2006); see also Rule 12 Governing Section 2255 Motions.

Upon due consideration, the Court **GRANTS** Cordova's Motion to Dismiss his Section 2255 Motion voluntarily. The Court **DISMISSES** Cordova's Section 2255 Motion without prejudice and **DISMISSES as moot** Cordova's Motion for an Order to Claim Jurisdiction over Petitioner. Dkt. No. 13. The Court **DIRECTS** the Clerk of Court to enter the appropriate judgement of dismissal and to **CLOSE** this case.

SO ORDERED, this 2 day of August, 2016.

LISA GODBEY WOOD, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA