

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 13 C 8985
	)	(Criminal Case No. 05 CR 254)
<b>HOSSEIN OBAEI,</b>	)	
	)	
Defendant.	)	

**MEMORANDUM ORDER**

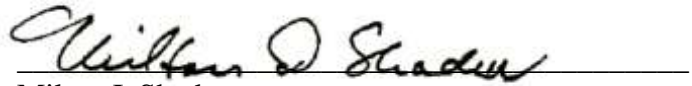
When Hossein Obaei ("Obaei") filed a pro se 28 U.S.C. § 2255 ("Section 2255") motion seeking to overturn his conviction in the criminal case that bears the number shown in the caption of this memorandum order, this Court immediately noted the apparent untimeliness of that motion as reflected in Obaei's own allegations. Accordingly it promptly issued a December 19, 2013 memorandum opinion and order directing that both Obaei and the Government weigh in on that issue on or before January 10.

On that date counsel for the Government filed a response on the timeliness issue -- and it turns out that Obaei had misstated (obviously through an inadvertent error) the date on which the United States Supreme Court had denied certiorari on his direct appeal -- it was in fact December 3, 2012 (see Obaei v. United States, 133 S. Ct. 774 (2012)) rather than November 13, 2012,<sup>1</sup> as he had stated. That mistaken dating by Obaei made all the difference, for by reason of the operation of the "mailbox rule" Obaei's seemingly out-of-time Section 2255 motion was indeed filed within the one-year limitation period that began on the December 3 date. Hence this

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<sup>1</sup> That was the date on which the Supreme Court had denied certiorari on the application by Obaei's co-defendant (see Hosseini v. United States, 133 S. Ct. 623 (2012)).

action can go forward on the merits, and in accordance with Rule 5 of the Rules Governing Section 2255 Proceedings for the United States District Courts the Government is ordered to answer Obaei's motion on or before February 28, 2014.<sup>2</sup>



Milton I. Shadur  
Senior United States District Judge

Date: January 16, 2014

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<sup>2</sup> That date has been selected on the premise that the Government will be able to assemble the necessary supporting materials as well as prepare its substantive answer within that time frame. If however that time period were to prove inadequate, this Court would of course entertain a Government motion for extension.