

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

MANUEL PUENTES-GARCIA,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Civil No. 12-cv-1184-JPG

Criminal No 03-cr-30181-JPG

MEMORANDUM AND ORDER

This matter comes before the Court on petitioner Manuel Puentes-Garcia's motion to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255 (Doc. 1). On October 9, 2008, the petitioner pled guilty to one count of illegal reentry into the United States without permission after having committed a felony and being removed from the United States, all in violation of 8 U.S.C. § 1326(a) and (b)(2). On February 6, 2009, the Court sentenced the petitioner to serve 86 months in prison with 1 month credit for time served. The petitioner did not appeal his sentence.

In his § 2255 motion, first filed on July 23, 2011, and filed as this case on November 16, 2012, the petitioner raises the following claims:

1. Ineffective assistance of counsel for failing to seek a downward departure due to the sentencing disparity with defendants in the fast-track program, *see, e.g., United States v. Reyes-Hernandez*, 624 F.3d 405 (7th Cir. 2010);
2. Ineffective assistance of counsel for failing to advise him deportation would result from his guilty plea, *see Padilla v. Kentucky*, 559 U.S. 356 (2010); and
3. Ineffective assistance of counsel for failing to communicate a plea offer from the Government, *see Missouri v. Frye*, 132 S. Ct. 1399 (2012).

The Court **ORDERS** the Government to file a response to the petitioner's § 2255 motion within **THIRTY DAYS** of the date this order is entered. In light of the timing of the petitioner's

motion, the Court invites the Government to address the timeliness of the petition. The Government shall, as part of its response, attach all relevant portions of the record in the underlying criminal case.

The Court further **DIRECTS** the Clerk of Court to send a copy of this order to the petitioner at:

Manuel Puentes-Garcia, Reg. No. 08021-025
FCI McDowell
Federal Correctional Institution
P.O. Box 1009
Welch, WV 24801

and to change his address accordingly in the file. The Court reminds the petitioner of his continuing obligation under Local Rule 3.1(b) to keep the Clerk's Office informed of changes in his location in writing within seven days after a transfer or other change in address. The Court further **WARNS** the petition that, in the future, the Court will construe any failure to abide by this rule as an intent to abandon this case and may dismiss this case under Federal Rule of Civil Procedure 41(b) for failure to prosecute.

IT IS SO ORDERED.
DATED: March 18, 2013

s/J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE