

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION**

LORENZO ALVAREZ-SANTOS,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

No. C13-4051-MWB
(CR11-4049-MWB)

**ORDER REGARDING SETTING
DEADLINE FOR PROSECUTION'S
RESPONSE TO PETITIONER'S
MOTION TO VACATE SENTENCE
AND JUDGMENT PURSUANT TO 28
U.S.C. § 2255**

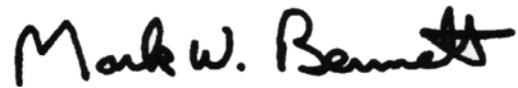
This case comes before the court on petitioner Lorenzo Alvarez-Santos's *pro se* motion for leave to proceed in forma pauperis (docket no. 1). In his motion, Alvarez-Santos seeks leave to proceed in forma pauperis with his attached Motion To Vacate Sentence and Judgment Pursuant to 28 U.S.C. § 2255. Petitioner Alvarez-Santos's *pro se* motion to proceed in forma pauperis is **granted**. The Clerk of Court is directed to file the attached Motion To Vacate Sentence and Judgment Pursuant to 28 U.S.C. § 2255. The Clerk of Court is also directed to appoint counsel to represent petitioner Alvarez-Santos on his Motion To Vacate Sentence and Judgment Pursuant to 28 U.S.C. § 2255.

The court conducted the required review under Rule 4(b) of the Rules Governing Section 2255 Proceedings and concludes that summary dismissal of petitioner's § 2255 motion is not appropriate at this time. *See Blackledge v. Allison*, 431 U.S. 63, 75-76 (1977) (making clear that summary dismissal is appropriate where the allegations are vague or conclusory, palpably incredible, or patently frivolous or false). Accordingly, the prosecution is directed to file either an answer in accordance with Rule 5(b) of the Rules

Governing Section 2255 Proceedings or an appropriate motion under Federal Rule of Civil Procedure 12 **on or before August 12, 2013**. *See* Rule 4(b) of the Rules Governing Section 2255 Proceedings. In the event that an answer is filed by the prosecution, the court will establish by subsequent order a briefing schedule.

IT IS SO ORDERED.

DATED this 11th day of June, 2013.

A handwritten signature in black ink that reads "Mark W. Bennett". The signature is written in a cursive style with a horizontal line underneath it.

MARK W. BENNETT
U. S. DISTRICT COURT JUDGE
NORTHERN DISTRICT OF IOWA