

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA

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v.

Criminal No. – JFM-10-0266  
Civil No. JFM-15-802

VINCENT HERNANDEZ

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**MEMORANDUM**

Vincent Hernandez has filed a motion under 28 U.S.C. §2255. The motion will be denied.

Federal statutes criminalizing the use and distribution of narcotics are constitutional. *Gonzalez v. Rauch*, 545 U.S. 1 (2005); *United States v. Harbin*, 2007 U.S. Dist. LEXIS 70033, at \*13-14 (S.D. Tex. Sept. 21, 2007).

Count II of the indictment was not “constructively amended.” There is sufficient evidence to establish that Hernandez possessed a firearm in furtherance of the conspiracy charged in count I.

Trial counsel was not at all ineffective in cross-examining the witnesses for the Government. Indeed, he was quite effective in doing so. His representation otherwise was effective in all respects.

A separate order denying Hernandez’s motion is being entered herewith.

Date: June 23, 2015

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/s/  
J. Frederick Motz  
United States District Judge