

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

_____	:	
JAVON R. GORDON,	:	
	:	
Petitioner,	:	Civ. No. 15-0192 (RBK)
	:	
v.	:	MEMORANDUM AND ORDER
	:	
UNITED STATES OF AMERICA,	:	
	:	
Respondent.	:	
_____	:	

Pro se petitioner Javon R. Gordon is a federal prisoner proceeding with a motion to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255. On October 28, 2014, this Court characterized petitioner’s motion for an extension of time to file a § 2255 that he filed under his criminal docket number (Crim. No. 09-020-1) as his actual § 2255 motion. A new civil action was then opened (Civ. No. 14-6760) with that motion being considered as his § 2255 motion. On December 3, 2014, Civ. No. 14-6760 was administratively terminated after petitioner failed to file his § 2255 motion on the proper form. However, petitioner was given a period of thirty days in which to file his § 2255 motion on the proper form.

On December 26, 2014, petitioner filed the instant § 2255 motion and the Clerk filed it under this new Civil Action No. 15-0192.¹ However, this petition should have been filed in petitioner’s previous § 2255 action, Civ. No. 14-6760. The Clerk will therefore be ordered to file the petition in this case as an amended petition Civ. No. 14-6760 and to close this Civil Action number.

¹ Pursuant to the prisoner “mailbox rule,” petitioner’s court filings are deemed filed on the date he delivered them to prison officials for mailing. *See Houston v. Lack*, 487 U.S. 266, 270-71 (1988).

Accordingly, IT IS on this 15th day of January, 2015,

ORDERED that the Clerk shall file the motion to vacate, set aside or correct petitioner's sentence (Dkt. No. 1.) as an amended petition in Civ. No. 14-6760 so that petitioner can pursue his case under that civil docket number; and it is further

ORDERED that the Clerk shall mark this case as closed; and it is further

ORDERED that the Clerk shall serve this Memorandum and Order on petitioner by regular U.S. Mail.

s/Robert B. Kugler
ROBERT B. KUGLER
United States District Judge