

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

CARLOS GINES-FIGUEROA,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Civil Action No. 15-3418 (RMB)

MEMORANDUM AND

ORDER

This matter comes before the Court on Petitioner's motion to vacate, set aside or correct his sentence under 28 U.S.C. § 2255. (Pet., ECF No. 4.) Petitioner alleged his counsel failed, when he entered his guilty plea, to present the Court with all of the sentence reductions he should receive. (Id., ¶12(a)). Petitioner currently has pending a motion for reduction of sentence pursuant to Amendment 782, where he raises the same issues presented in the present petition. See United States v. Gines-Figueroa, Criminal Action No. 12-618 (ECF No. 34) (D.N.J.) This Court will therefore stay this matter, pending resolution of Petitioner's motion pursuant to Amendment 782 in the criminal action.

IT IS therefore, on this 7th day of August 2015,

ORDERED that the Clerk of the Court shall reopen this matter;

ORDERED that this matter is stayed pending resolution of Petitioner's motion for reduction of sentence pursuant to Amendment 782 in United States v. Gines-Figueroa, Criminal Action No. 12-618 (ECF No. 34) (D.N.J.); and it is further

ORDERED that within twenty days of resolution of the above-described motion, Petitioner shall submit a written statement to this Court, submitted to Mitchell H. Cohen Building & U.S. Courthouse, 4th & Cooper Streets, Camden, NJ 08101, stating whether he wishes to withdraw the present § 2255 motion or reopen this matter for further proceedings; and it is further

ORDERED that the Clerk of Court administratively terminate this case; Petitioner is informed that administrative termination is not a "dismissal" for purposes of the statute of limitations, and that if the case is reopened, it is not subject to the statute of limitations time bar if it was originally filed timely, *see Papotto v. Hartford Life & Acc. Ins. Co.*, 731 F.3d 265, 275 (2013) (distinguishing administrative terminations from dismissals); *Jenkins v. Superintendent of Laurel Highlands*, 705 F.3d 80, 84 n.2 (2013) (describing prisoner mailbox rule generally); *Dasilva v. Sheriff's Dep't.*, 413 F. App'x 498, 502 (3rd Cir. 2011) (per curiam) ("[The] statute of limitations is met when a [motion] is submitted to the clerk before the statute runs ..."); and it is further

ORDERED that the Clerk of the Court shall serve a copy of this Memorandum and Order upon Petitioner by regular U.S. mail.

s/Renée Marie Bumb
RENÉE MARIE BUMB
United States District Judge