

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

MOISES HERNANDEZ,

Petitioner,

v.

UNITED STATES,

Respondent.

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Civ. No. 17-4582 (RBK)

MEMORANDUM AND ORDER

Petitioner, Moises Hernandez, is proceeding with a motion to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255. At the time Mr. Hernandez filed his § 2255 motion, he was proceeding *pro se*. On June 30, 2017, this Court administratively terminated this matter as Mr. Hernandez had not filed his § 2255 motion on the proper Clerk form. Mr. Hernandez was given thirty days in which to file his § 2255 motion on the Clerk form.

On July 28, 2017, Mario J. Persiano, Esq., filed a notice of appearance to represent Mr. Hernandez and requested an additional thirty days in which to file the § 2255 motion. The Court granted the request and ordered counsel to file the motion on or before August 30, 2017. The Court noted that the new motion need not be on the Clerk's form as it would be prepared by counsel, *see* L.Civ.R. 81.2(a) , but should still contain all of the information that the form requests from a petitioner.

Counsel filed the new motion on August 31, 2017. (Dkt No. 7). The Court notes that it is the same motion filed by petitioner on June 21, 2017 bearing Mr. Hernandez's signature. Rule 11 of the Federal Rules of Civil Procedures requires all pleadings to be signed by counsel if the party is represented. Fed. R. Civ. P. 11(a). *See also* L.Civ.R. 12(a) ("An electronically filed

document . . . and in compliance with Local Civil Rules 10.1 and 11.1, must include a signature line with ‘s/’”). Mr. Persiano did not sign the pleading.

Accordingly, IT IS this 11th day of September, 2017,

ORDERED that the Motion filed on August 31, 2017 (Dkt. No. 7) is STRIKEN for failure to include counsel’s signature; and it is further

ORDERED that counsel shall submit a new, signed motion within **14 days** of the date of entry of this Order.

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