IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

GERALD JAMES VIARRIAL,

Petitioner,

v. Civ. 19-361 MV/SCY
Cr. 15-214 MV/SCY-1

UNITED STATES OF AMERICA,

Respondent.

ORDER ADOPTING MAGISTRATE JUDGE'S
PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

THIS MATTER is before the Court on Petitioner's Motion to Amend, filed December 11, 2019. Doc. 8. The Court referred this motion to United States Magistrate Judge Steven C. Yarbrough for entry of proposed findings and a recommended disposition. Doc. 3.

On January 23, 2020, Judge Yarbrough ordered Petitioner to supplement his Motion to Amend within 30 days to attach his proposed amended motion to vacate. Doc. 10. Petitioner failed to file the required supplement[1] and so Judge Yarbrough entered his Proposed Findings and Recommended Disposition ("PFRD") in which he recommends denying Petitioner's Motion to Amend. Doc. 11. Judge Yarbrough notified the parties that they had 14 days from the service of the PFRD to file any objections to the PFRD. *Id*. at 2. The parties have not filed any objections to the PFRD, thereby waiving their right to review of the proposed disposition. *See United States*

[1] On February 24, 2020, Petitioner filed multiple pages of argument and authority. Doc. 12. However, he very clearly labeled his filing a response to CM/ECF Document No 7. *See id.* at 1-2, 9. CM/ECF Document No. 7 is the Government's response to Petitioner's original Motion to Vacate Under 28 U.S.C. § 2255. The Court will therefore treat the February 24 filing as a reply to Petitioner's original Motion, not as the supplement Judge Yarbrough ordered.

v. One Parcel of Real Prop., 73 F.3d 1057, 1060 (10th Cir. 1996). Furthermore, upon review of the PFRD, the Court concurs with Judge Yarbrough's findings and recommendation.

Wherefore,

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Magistrate Judge's Proposed Findings and Recommended Disposition *(*Doc. 11*)* is ADOPTED;

2. Plaintiff's Motion to Amend (Doc. 8) is DENIED.

MARTHA VÁZQUEZ
UNITED STATES DISTRICT JUDGE