

**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 Vacate Under 28 U.S.C. § 2255 (Civil "CV" Doc. 1; Criminal "CR" Doc. 157) and Petitioner's Motion to Supplement (CV Doc. 15). Pursuant to 28 U.S.C. § 636(b)(1)(A) and Federal Rule of Civil Procedure 72(a), the Court referred this matter to Magistrate Judge Steven C. Yarbrough to conduct hearings, if warranted, and to perform any legal analysis required to recommend an ultimate disposition of the case. CV Doc. 3.

On July 2, 2020, Judge Yarbrough entered his Proposed Findings and Recommended Disposition ("PFRD") in which he recommends denying Petitioner's Motion to Supplement and denying Petitioner's Motion to Vacate. CV Doc. 16. 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 29. The parties have not filed any objections to the PFRD, thereby waiving their right to review of the proposed disposition. *See United States 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 (CV Doc. 16) is ADOPTED;
2. Petitioner's Motion to Supplement (CV Doc. 15) is DENIED;
3. Petitioner's Motion to Vacate Under 28 U.S.C. § 2255 (CV Doc. 1; CR Doc. 157) is DENIED and this case is DISMISSED;
4. A certificate of appealability is DENIED;
5. A final order is entered concurrently herewith.

  
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MARTHA NÁZQUEZ  
UNITED STATES DISTRICT JUDGE