Sealed Defendant 1 v. USA Doc. 20

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

11 CIV. 4985 (JSR)

JAIRO GABRIEL MONTOYA HERNANDEZ,
Petitioner,

-against-

UNITED STATES OF AMERICA,

Respondent.

07 Cr. 197 (JSR)

ORDER

8/5/14

JED S. RAKOFF, U.S.D.J.

On April 28, 2014, the Honorable Henry Pitman, United States Magistrate Judge, issued a Report and Recommendation in the above-captioned matter recommending that the Court deny the petitioner's 2255 motion to vacate, set aside or correct the sentence imposed in his criminal case. Objections to the Report and Recommendation were due on May 12, 2014.

On May 17, 2014, pro se plaintiff Jairo Gabriel Montoya Hernandez filed objections to the Report. The petitioner's objections are non-responsive to Judge Pitman's Report and Recommendation. Instead of arguing his ineffective assistance of counsel claim, the petitioner has attempted to attack the underlying facts of his conviction. For example, the petitioner has submitted many pages detailing why various phone calls the Government used as evidence against him are not probative of his involvement in the charged narcotics conspiracy.

Nonetheless, the Court has reviewed the petitioner's objections and the underlying record de novo. Having done so, the

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Court finds itself in complete agreement with Magistrate Judge Pitman's Report and Recommendation and hereby adopts its reasoning by reference. For the reasons stated in the Report, the Court hereby denies the petition, with prejudice.

Clerk to enter judgment.

SO ORDERED.

Dated: New York, New York
August 4, 2014

JED S. RAKOFF, U.S.D.J.