

**THE UNITED STATES DISTRICT COURT
 FOR THE WESTERN DISTRICT OF NORTH CAROLINA
 CHARLOTTE DIVISION
 3:12-cv-00327-MOC
 (3:97-cr-00023-MOC-1)**

AQUILIA MARCIVICCI BARNETTE,)
)
Petitioner,)
)
vs.)
)
UNITED STATES OF AMERICA,)
)
Respondent.)
 _____)

ORDER

THIS MATTER is before the Court upon it’s own motion.

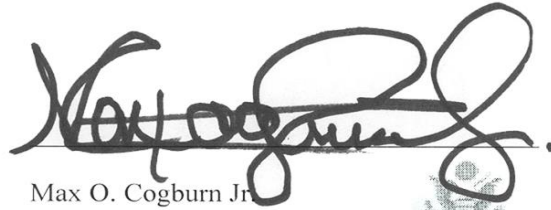
On December 8, 2016, the Court entered an Order holding this civil action in abeyance pending decisions by the United States Supreme Court in Lynch v. Dimaya, No. 15-1498, decided sub nom Sessions v. Dimaya, 138 S.Ct. 1204 (2018), and the Fourth Circuit Court of Appeals in United States v. Simms, No. 15-4640. (Doc. No. 124). The Order directed Respondent to file an answer, motion, or other response to Petitioner’s Supplemental Motion to Vacate (Doc. No. 119) within 60 days of entrance of the later of the two decisions.

The Supreme Court issued its opinion in Dimaya on April 17, 2018. On June 15, 2018, the Fourth Circuit granted Simms’s Motion for Rehearing En Banc, and oral arguments were held on September 26, 2018. United States v. Simms, No. 15-4640 (4th Cir.), ECF Nos. 52, 83.

IT IS, THEREFORE, ORDERED that the Court’s previous abeyance Order (Doc. No. 124) is modified to provide that Respondent shall have 60 days from the date the Simms, No. 15-4640, decision becomes final after en banc review to file an answer, motion, or other response to Petitioner’s Supplemental Motion to Vacate (Doc. No. 119).

SO ORDERED.

Signed: November 9, 2018

A handwritten signature in black ink, appearing to read "Max O. Cogburn Jr.", written over a horizontal line. The signature is stylized with large loops and a prominent initial "M".

Max O. Cogburn Jr.
United States District Judge

