

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
DOCKET NO. 3:14-cv-00600-MOC

**ERIC WHITENER,** )  
 )  
 Petitioner, )  
 )  
 Vs. ) **ORDER**  
 )  
 **UNITED STATES OF AMERICA,** )  
 )  
 Respondent. )

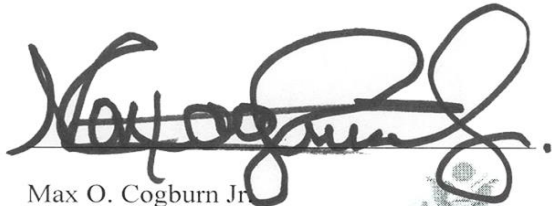
**THIS MATTER** is before the court on petitioner’s Motion that the Court’s Order Requiring Government’s Response to His Rosemond Claim Be Expanded to Also Require a Response on Whether his Bailey Claims are Timely. As previously discussed, the screening required by the Rules Governing Section 2255 Proceedings have lead this court to conclude that petitioner’s Bailey claims are time barred by a number of years. While petitioner has pointed to cases which may well indicate that the government has taken a position favorable to him on Rosemond claims, there is no case law which suggests that his Bailey claims have somehow survived. While the government is certainly welcome to consider all of the claims the court has found and addressed, it cannot require a response to claims that appear to be time barred. Having considered petitioner’s motion and reviewed the pleadings, the court enters the following Order.

**ORDER**

**IT IS, THEREFORE, ORDERED** that petitioner’s Motion that the Court’s Order Requiring Government’s Response to His Rosemond Claim Be Expanded to Also Require a Response on Whether his Bailey Claims are Timely (#24) is DENIED. The government is,

however, at liberty to address any claims the court has found and earlier denied if it deems such action appropriate.

Signed: April 17, 2015



Max O. Cogburn Jr.  
United States District Judge