

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION  
5:13-CV-00049-RLV  
(Criminal Case No. 5:03-CR-00004-RLV-3)

JORGE GONZALEZ-JAIMES, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 UNITED STATES OF AMERICA, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

**ORDER**

**THIS MATTER** is before the Court on remand from the United States Court of Appeals for the Fourth Circuit.

On April 1, 2013, this Court denied Petitioner's motion to vacate his sentence, filed pursuant to 28 U.S.C. § 2241, along with his alternative claims for relief. (Doc. No. 2).<sup>1</sup> Petitioner appealed and the Fourth Circuit held his appeal in abeyance pending the Court's disposition in Miller v. United States, No. 13-6254 (4th Cir. 2013). On August 21, 2013, the Fourth Circuit published an opinion in Miller, concluding that the holding in United States v. Simmons, 649 F.3d 237 (4th Cir. 2011) (en banc), was retroactive to cases on collateral review. Miller v. United States, 735 F.3d 141, 147 (4th Cir. 2013). On January 30, 2014, the Fourth Circuit entered an order granting the parties' joint motion to remand the case to this Court for further consideration. (Doc. No. 7).

The Court finds that the Respondent may file an amended motion for relief from his sentence within thirty (30) days from entry of this Order, and the Government should file a

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<sup>1</sup> On October 5, 2005, the Court denied Petitioner's motion to vacate, set aside or correct sentence, which the Court found was in fact a motion for relief under 28 U.S.C. § 2255. (Civil Case No. 5:05-CV-00224).

response addressing such amendment within thirty (30) days of Petitioner's filing. In the event Petitioner does not elect to file an additional pleading or authority, the Government should file a response within thirty (60) days from entry of this order addressing Petitioner's original claim for relief from his sentence. See (Doc. No. 1).

**IT IS, THEREFORE, ORDERED** that:

1. Petitioner may file an amended motion for relief from his sentence or present additional authority within 30 days from entry of this Order.
2. The Government should file a response to any such amended motion for relief within 30 days from its filing, or in the event that Petitioner does not file any such motion, then the Government should file a response addressing Petitioner's claim for relief from his sentence within 60 days from entry of this order.

**IT IS SO ORDERED.**

Signed: February 3, 2014



Richard L. Voorhees  
United States District Judge

