

United States Court of Appeals For the First Circuit

No. 17-2187

UNITED STATES,

Appellee,

v.

WILFREDO JIMENEZ-TORRES,

Defendant - Appellant.

Before

Howard, Chief Judge,
Torruella and Kayatta, Circuit Judges.

JUDGMENT

Entered: April 5, 2018

In November 2017, Defendant-Appellant Wilfredo Jimenez-Torres, pro se, filed in the district court a document captioned "notice of appeal under the 28 U.S.C. § 2255." The filing initially was construed by the district court as a notice of appeal, despite the fact that the notice seemingly would not have been timely as to any order or judgment entered in Jimenez-Torres' criminal proceedings. This appeal was opened in response to the filing. However, we now conclude that the filing was intended as a § 2255 motion. Accordingly, the clerk shall transfer the motion back to the United States District Court for the District of Puerto Rico. See Fed. R. App. P. 22(a) (when a § 2255 motion is "made to a circuit judge, the application must be transferred to the appropriate district court"). This court expresses no view as to whether the motion is timely or meritorious, and we leave it to the district court to coordinate handling of this motion with handling of the § 2255 motion that Jimenez-Torres filed several weeks after filing the current motion. See D. Ct. Case No. 17-cv-02348-CCC. This appeal is terminated.

So ordered.

By the Court:

/s/ Margaret Carter, Clerk

cc:

Hon. Carmen Consuelo Cerezo

Frances Rios de Moran, Clerk, United States District Court for the District of Puerto Rico

Ignacio Fernandez-De-Lahongrais

Wilfredo Jimenez-Torres

Max J. Perez-Bouret

Mariana E. Bauza Almonte