

ORDER

As no objections were filed, the findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. The government's motion to dismiss is **DENIED** with respect to the claim that counsel failed to file a notice of appeal on movant's behalf and **GRANTED** in all other respects.

SIGNED at Beaumont, Texas, this 16th day of August, 2010.

Marcia A. Crone

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE