

the claim was foreclosed by established circuit law at the time it could have been raised during trial, on direct appeal, or in connection with an initial motion to vacate, set aside or correct sentence filed pursuant to 28 U.S.C. § 2255. *Reyes-Requena v. United States*, 243 F.3d 893, 904 (5th Cir. 2001).

Initially, petitioner relies on the Supreme Court's decision in *United States v. Ressam*, 553 U.S. 272 (2008). However, the Magistrate Judge correctly concluded that *Ressam* is not relevant to petitioner's conviction.

With respect to the conviction regarding the conspiracy to distribute heroin, petitioner also relies on the Supreme Court's decision in *Rosemond v. United States*, 134 S. Ct. 1240 (2014). However, *Rosemond* does not demonstrate petitioner was convicted of a nonexistent offense. In its opinion concerning petitioner's direct appeal, the United States Court of Appeal for the Fifth Circuit stated there was evidence that petitioner ordered a co-defendant to kill Leonard Morgan because Morgan was invading petitioner's heroin-trafficking territory. *United States v. Davis*, 124 F. App'x 838, 843 (5th Cir. 2005). As a result, petitioner fails to demonstrate *Rosemond* establishes he was convicted of a nonexistent offense.

ORDER

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is **ADOPTED**. A final judgment will be entered in accordance with the recommendation of the Magistrate Judge.

So **ORDERED** and **SIGNED** this **1** day of **June, 2016**.



Ron Clark, United States District Judge