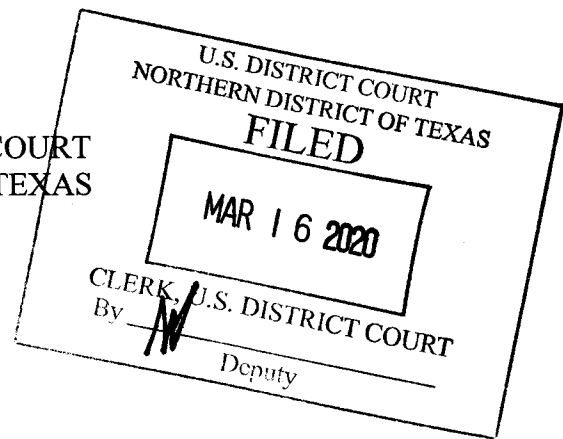


IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION



BENIGNO PAEZ,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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2:19-CV-185-Z

**ORDER ADOPTING FINDINGS, CONCLUSIONS AND RECOMMENDATION,
GRANTING RESPONDENT'S MOTION TO DISMISS,
AND
DISMISSING AMENDED MOTION TO VACATE, SET ASIDE, OR CORRECT
SENTENCE**

Before the Court are the findings, conclusions and recommendation of the United States Magistrate Judge (ECF No. 11) to grant Respondent's motion to dismiss (ECF No. 10) and to dismiss the Amended Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence filed by Petitioner (ECF No. 6). No objections to the findings, conclusions, and recommendation have been filed. After making an independent review of the pleadings, files, and records in this case, the Court concludes that the findings, conclusions, and recommendation of the Magistrate Judge are correct. It is therefore ORDERED that the Magistrate Judge's findings, conclusions, and recommendation are ADOPTED, Respondent's motion to dismiss (ECF No. 10) is GRANTED, and Petitioner's Amended Motion to Vacate, Set Aside, or Correct Sentence (ECF No. 6) is DISMISSED.

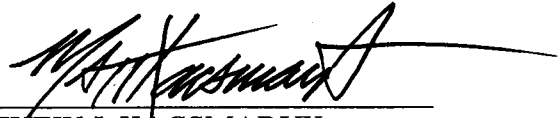
Considering the record in this case and pursuant to Federal Rule of Appellate Procedure 22(b), Rule 11(a) of the Rules Governing Section 2255 Proceedings in the United States District

Courts, and 28 U.S.C. § 2253(c), the Court denies a certificate of appealability because Petitioner has failed to make “a substantial showing of the denial of a constitutional right.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). The Court ADOPTS and incorporates by reference the Magistrate Judge’s findings, conclusions, and recommendation filed in this case in support of its finding that Petitioner has failed to show (1) that reasonable jurists would find this Court’s “assessment of the constitutional claims debatable or wrong,” or (2) that reasonable jurists would find “it debatable whether the petition states a valid claim of the denial of a constitutional right” and “debatable whether [this Court] was correct in its procedural ruling.” *Id.*

If Petitioner files a notice of appeal, he may proceed *in forma pauperis* on appeal. See Federal Rule of Appellate Procedure 24(a)(3).

SO ORDERED.

March 16, 2020.



MATTHEW J. KACSMARYK
UNITED STATES DISTRICT JUDGE