

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

| | | |
|---------------------------|---|----------------------|
| JESUS GAMEZ, | § | |
| Petitioner, | § | |
| | § | |
| v. | § | 3:13-CV-0980-D |
| | § | (3:11-CR-0081-D(03)) |
| UNITED STATES OF AMERICA, | § | |
| Respondent. | § | |

ORDER


After making an independent review of the pleadings, files, and records in this case, and the findings, conclusions, and recommendation of the magistrate judge, the court concludes that the findings and conclusions are correct. It is therefore ordered that the findings, conclusions, and recommendation of the magistrate judge are adopted.

Accordingly, the court Grants in part the motion to vacate, set aside, or correct sentence, under 28 U.S.C. § 2255, as to the first and second claims that petitioner's defense attorney rendered constitutionally ineffective assistance of counsel in failing to file a requested notice of appeal, orders that petitioner be permitted to file an out-of-time appeal in the underlying criminal action, and dismisses without prejudice the remaining § 2255 claims.

It is further ordered that the United States District Clerk reenter the judgment in Criminal No. 3:11-CR-081-D(03), and file a notice of appeal on petitioner's behalf no later than 14 days after the reentry of the criminal judgment. The court will then determine whether petitioner is financially able to retain an attorney to represent him on appeal or whether an attorney should be appointed to represent him.

SO ORDERED.

May 30, 2013.



SIDNEY A. FITZWATER
CHIEF JUDGE