

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

<p>WILBERT JAMES VEASEY, JR,</p> <p style="padding-left: 40px;">ID # 44133-177,</p> <p style="padding-left: 80px;">Movant,</p> <p>vs.</p> <p>UNITED STATES OF AMERICA,</p> <p style="padding-left: 40px;">Respondent.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>No. 3:21-CV-1007-L-BH</p> <p>No. 3:12-CR-54-L(3)</p> <p>Referred to U.S. Magistrate Judge¹</p>
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ORDER

On June 25, 2021, this habeas case under 28 U.S.C. § 2255 was dismissed as premature because the movant’s criminal conviction was not final at the time he filed this action. (*See* docs. 4, 6, 7.) The movant filed a motion for reconsideration under Federal Rule of Civil Procedure 59(e) that was received on July 6, 2021, contending that he had submitted a new § 2255 motion on May 25, 2021, after his conviction became final. (*See* doc. 8.) On July 9, 2021, it was recommended that the motion be denied, primarily because the docket reflected no new § 2255 motion. (*See* doc. 9.) After the movant again asserted that he had previously submitted a § 2255 motion (*see* doc. 10), the Clerk’s Office was asked to confirm that no motion had been submitted. On July 21, 2021, the Clerk’s Office advised that Movant had indeed submitted a § 2255 motion dated May 25, 2021, which did not appear on the docket, and it docketed the filing and updated the docket to reflect its submission. (*See* doc. 5-1.) Because Movant did file a § 2255 motion dated May 25, 2021, the findings, conclusions, and recommendation dated July 9, 2021 (doc. 9), are hereby **VACATED**.

¹ By *Special Order No. 3-251*, this habeas case was automatically referred for determination of non-dispositive motions and issuance of findings, conclusions and recommendation.

Rather than reopening this prematurely-filed and closed case, the movant's May 25, 2021 motion, which was filed after his conviction became final, should be opened as a new action under 28 U.S.C. § 2255. Accordingly, the Clerk of Court is **DIRECTED** to: (1) docket the movant's § 2255 motion dated May 25, 2021 and received on May 28, 2021, in the underlying criminal case; (2) open a new habeas case under 28 U.S.C. § 2255; (3) docket the § 2255 motion dated May 25, 2021 and received on May 28, 2021, in that new case; (4) directly assign the new case to the same District Judge and Magistrate Judge as in this case; (5) and file a copy of this order in the new case.

SIGNED this 23rd day of July, 2021.


IRMA CARRILLO RAMIREZ
UNITED STATES MAGISTRATE JUDGE