

United States District Court
Southern District of Texas

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

ENTERED
January 27, 2017
David J. Bradley, Clerk

EMILIO DE LA GARZA-
MONTEMAYOR
Petitioner,

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v.

Civil Action No. 1:16-cv-00292
(Criminal Action No. B-15-436-1)

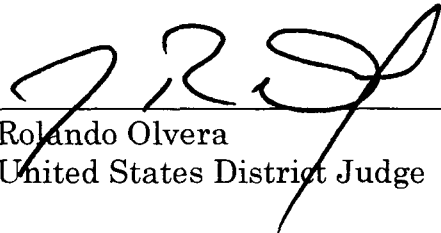
UNITED STATES OF AMERICA,
Respondent.

**ORDER ADOPTING MAGISTRATE
JUDGE’S REPORT AND RECOMMENDATION**

Before the Court is the “Magistrate Judge’s Report and Recommendation” (Docket No. 6) in the above-captioned case. The Magistrate Judge’s Report and Recommendation recommends dismissing Emilio de la Garza-Montemayor’s “Motion to Modify and Reduce Sentence” (Docket No. 1) because his direct appeal is pending in the Fifth Circuit. Docket No. 6 at 2–3. No objections were filed. As of January 26, 2017, Garza-Montemayor’s direct appeal is still pending.

After a de novo review of the file, the “Magistrate Judge’s Report and Recommendation” (Docket No. 6) is **ADOPTED**. A certificate of appealability shall not issue. The Clerk is **ORDERED** to close this case.

Signed on this 26 day of January, 2017.



Rolando Olvera
United States District Judge