

United States District Court  
Southern District of Texas

**ENTERED**

March 19, 2018

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

JOSE VIELMA-GARCIA  
Movant

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CIVIL ACTION NO. M-14-759

VS.

CRIMINAL NO. M-11-284-1

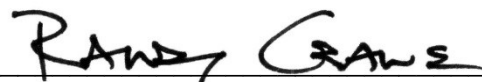
UNITED STATES OF AMERICA  
Respondent

**ORDER ADOPTING REPORT AND RECOMMENDATION**

Pending before the Court is Movant's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255, which motion had been referred to the Magistrate Court for a report and recommendation. On March 30, 2017, the Magistrate Court issued the Report and Recommendation, recommending that Respondent's Motion to Dismiss be granted, and that Movant's section 2255 motion be dismissed with prejudice, and that a Certificate of Appealability be denied upon the issuance of this Court's final order. Also pending before the Court are Movant's objections to the Report and Recommendations (Docket Entry No. 15). Although Movant was given additional time to respond to the Motion to Dismiss because it was not provided earlier access to trial counsel's affidavit (Docket Entry No. 17), Movant made no additional response after having received trial counsel's affidavit.

Pursuant to Federal Rule of Civil Procedure 72(b), the Court has conducted a de novo review of the Report and Recommendation. Finding no clearly erroneous error, the Court adopts the Report and Recommendation in its entirety. Accordingly, Respondent's Motion to Dismiss (Dkt. Entry No. 9) is **GRANTED**, and Movant's section 2255 claims are **DISMISSED** with prejudice. A Certificate of Appealability is **DENIED**.

SO ORDERED this 19th day of March, 2018, at McAllen, Texas.

A handwritten signature in black ink that reads "Randy Crane". The signature is written in a cursive style with a horizontal line underneath it.

Randy Crane  
United States District Judge