

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

GABRIEL NUNEZ,	:	
	:	
Movant,	:	
	:	
v.	:	Case No. 5:22-cr-00018-CAR-CHW-1
	:	
UNITED STATES OF AMERICA,	:	
	:	Proceedings Under 28 U.S.C. § 2255
Respondent.	:	Before the U.S. Magistrate Judge
	:	

ORDER

Gabriel Nunez filed a Motion to Vacate, Set Aside, or Correct a Sentence pursuant to 28 U.S.C. § 2255. (Doc. 76). Because Nunez was litigating a direct appeal before the Eleventh Circuit Court of Appeals when he originally filed his motion, a Recommendation was made to dismiss Movant’s Section 2255 motion without prejudice for lack of jurisdiction. (Doc. 77). Before the Recommendation could be considered, Movant’s appeal was dismissed. (Docs. 79, 80). Because Movant’s appeal no longer deprives the Court of jurisdiction to consider the Section 2255 motion, the previously entered Report and Recommendation (Doc. 77) is hereby **VACATED and WITHDRAWN**.

After conducting an initial review of Movant’s Section 2255 motion in accordance with the provisions of Rule 4 of the Rules Governing Section 2255 Proceedings for the United States District Courts, the Court is unable to conclude that the instant Motion is subject to summary dismissal.

IT IS THEREFORE ORDERED that within **thirty (30) days** of the date of this Order, Movant shall amend his motion to include every unalleged possible constitutional error or deprivation entitling his to federal habeas corpus relief, failing which Movant will be presumed

to have deliberately waived his right to complain of any constitutional errors or deprivations other than those set forth in his initial motion. If amended, Movant will be presumed to have deliberately waived his right to complain of any constitutional errors or deprivations other than those set forth in his initial and amended motions.

IT IS FURTHER ORDERED that the United States Attorney **RESPOND** to Movant's claims by filing an answer or other responsive pleading pursuant to Rule 5 of the Rules Governing Section 2255 Proceedings for the United States District Courts within **sixty (60) days** of the date of this Order.

SO ORDERED, this 26th day of September, 2025.

s/ Charles H. Weigle
Charles H. Weigle
United States Magistrate Judge