

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CRAIG ALAN CASTANEDA

versus

UNITED STATES OF AMERICA

Criminal Action Number

1:15-cr-00213-ELR-LRS-1

Civil Action Number

1:25-cv- 02348-ELR-LRS

FINAL REPORT AND RECOMMENDATION

Movant Craig Alan Castaneda, confined at Federal Correctional Institution Terminal Island in San Pedro, California, filed a motion to vacate, set aside, or correct sentence under 28 USC § 2255. (Doc. 216.) Respondent filed a response. (Doc. 224.) For the reasons stated below, it is **RECOMMENDED** that the motion be **DENIED** as untimely and that a certificate of appealability be **DENIED**.

Background

On December 12, 2018, a jury convicted Castaneda of using a cellular telephone and computer connected to the internet to attempt to entice a minor to engage in sexual activity in violation of 18 USC § 2422(b), and traveling interstate with the intent to engage in sexual activity with a person under the age of 12 years in violation of 18 USC § 2241(c).

(Docs. 12, 146.) He was sentenced to a total term of 420 months of imprisonment. (Doc. 169.) On direct appeal, the Eleventh Circuit affirmed Castaneda's convictions and sentence on May 19, 2021. *United States v. Castaneda*, 997 F.3d 1318 (11th Cir. 2021). Castaneda dated this § 2255 motion on April 9, 2025. (*See* Doc. 216 at 8.)

Discussion

Under the Antiterrorism and Effective Death Penalty Act of 1996, a § 2255 motion is subject to a one-year statute of limitations. 28 USC § 2255(f). The one-year period runs from the latest of the dates on which: (1) the movant's convictions became final; (2) a governmental impediment to filing the movant's federal habeas application was removed; (3) a constitutional right on which the movant relies was recognized by the United States Supreme Court, if the right has been newly recognized and made retroactively applicable to cases on collateral review; or (4) the movant, with due diligence, could have discovered the facts supporting his claims. 28 USC § 2255(f)(1)–(4). The limitations period in § 2255(f) is subject to equitable tolling. *Akins v. United States*, 204 F.3d 1086, 1089 (11th Cir. 2000).

With respect to § 2255(f)(1), Castaneda's conviction became final on August 17, 2021, when the 90-day time limit to file a petition for writ of certiorari in the United States Supreme Court expired. *See Clay v. United States*, 537 U.S. 522, 525 (2003) (holding that “a judgment of conviction becomes final when the time expires for filing a petition for

certiorari contesting the appellate court’s affirmation of the conviction”); Sup. Ct. R. 13.1 (“Unless otherwise provided by law, a petition for a writ of certiorari to review a judgment in any case, civil or criminal, entered by a state court of last resort or a United States court of appeals . . . is timely when it is filed with the Clerk of this Court within 90 days after entry of the judgment.”).¹ Castaneda then had one year, until August 17, 2022, to file a § 2255 motion. *See* § 2255(f)(1). Castaneda, however, did not file his § 2255 motion until April 9, 2025, at the earliest. (*See* Doc. 216 at 8.) His motion is therefore untimely by nearly three years.

As noted earlier, the limitations period in § 2255(f) is subject to equitable tolling. *Akins*, 204 F.3d at 1089. “[A] petitioner is entitled to equitable tolling only if he shows (1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstance stood in his way and prevented timely filing.” *Holland*, 560 U.S. at 649 (internal quotation marks omitted). “[E]quitable tolling is an extraordinary remedy limited to rare and exceptional circumstances and typically applied sparingly.” *Cadet v. Fla. Dep’t of Corr.*, 853 F.3d 1216, 1221 (11th Cir. 2017) (internal quotation marks omitted).

¹ Respondent states that Castaneda’s sentence became final on September 15, 2021, presumably measuring from 90 days after the Eleventh Circuit issued its mandate. (Doc. 224 at 7; *see* Doc. 202 (Eleventh Circuit mandate issued on June 17, 2021).) However, as provided in *Clay* and the Rules of the Supreme Court of the United States, Castaneda’s sentence became final 90 days after the Eleventh Circuit issued its judgment. Regardless, the § 2255 motion is untimely even if the latter date, September 15, 2021, applied.

Castaneda argues that his motion is timely. (Doc. 216 at 7.) His argument is not especially clear and he does not directly argue for equitable tolling, but he appears to contend that he is actually innocent.² (*See id.*)

A court may consider an otherwise untimely § 2255 motion containing a claim of actual innocence “if, by refusing to consider the [motion] for untimeliness, the court thereby would endorse a fundamental miscarriage of justice because it would require that an individual who is actually innocent remain imprisoned.” *San Martin v. McNeil*, 633 F.3d 1257, 1267–68 (11th Cir. 2011) (internal quotation marks omitted). However, the “actual innocence exception is exceedingly narrow in scope.” *Id.* at 1268 (internal quotation marks omitted). Moreover, “‘actual innocence’ means factual innocence, not mere legal insufficiency.” *McKay v. United States*, 657 F.3d 1190, 1197 (11th Cir. 2011) (emphasis and internal quotation marks omitted). “To show actual innocence of the crime of conviction, a movant must show that it is more likely than not that no reasonable juror would have found him guilty beyond a reasonable doubt in light of the new evidence of innocence.” *Id.* at 1196 (brackets and internal quotation marks omitted).

² In claiming that he acted with due diligence in discovering that he is actually innocent, Castaneda appears to be conflating actual innocence, equitable tolling, and § 2255(f)(4). (*See* Doc. 216 at 7.) To the extent that he raises a separate argument that his motion is timely under § 2255(f)(4) as opposed to a claim that he is actually innocent, such an argument fails, as he has not presented any evidence showing precisely what facts he discovered that he could not have discovered earlier.

Castaneda has not shown that he is actually innocent, as he has failed to present any new evidence to support his claim, instead making legal arguments that largely could have been raised on direct appeal, suggesting legal strategies his counsel could have pursued, and noting Sentencing Guidelines amendments enacted while he has been incarcerated. None of these suggest he is factually innocent. *See Schlup v. Delo*, 513 U.S. 298, 324 (1995) (“To be credible, such a claim requires petitioner to support his allegations of constitutional error with new reliable evidence—whether it be exculpatory scientific evidence, trustworthy eyewitness accounts, or critical physical evidence—that was not presented at trial.”); (Doc. 216 at 5, 7.; Doc. 222 at 5–6.) Thus, this action is untimely and should be dismissed.

Certificate of Appealability

Under Rule 11 of the Rules Governing Section 2255 Cases, “[t]he district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant. . . . If the court issues a certificate, the court must state the specific issue or issues that satisfy the showing required by 28 USC § 2253(c)(2).” Section 2253(c)(2) states that a certificate of appealability may issue “only if the applicant has made a substantial showing of the denial of a constitutional right.” A substantial showing of the denial of a constitutional right “includes showing that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different

manner or that the issues presented were adequate to deserve encouragement to proceed further.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (internal quotation marks omitted).

When the district court denies a habeas petition on procedural grounds without reaching the prisoner’s underlying constitutional claim . . . a certificate of appealability should issue only when the prisoner shows both that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right *and* that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.

Jimenez v. Quarterman, 555 U.S. 113, 118 n.3 (2009) (citing *Slack*, 529 U.S. at 484) (internal quotation marks omitted).

It is **RECOMMENDED** that a certificate of appealability be **DENIED** because resolution of the issues presented is not debatable. If the District Judge adopts this recommendation and denies a certificate of appealability, Castaneda is advised that he “may not appeal the denial but may seek a certificate from the court of appeals under Federal Rule of Appellate Procedure 22.” 28 USC foll. § 2255, Rule 11(a).

Conclusion

For the reasons stated above, it is **RECOMMENDED** that the instant motion to vacate (Doc. 216) be **DENIED** as untimely and a certificate of appealability be **DENIED**.

The Clerk is **DIRECTED** to terminate the referral to the undersigned.

SO RECOMMENDED, July 6, 2026.

A handwritten signature in blue ink, reading "Law R. Sommerfeld". The signature is fluid and cursive, with the first name "Law" and last name "Sommerfeld" clearly legible.

LAWRENCE R. SOMMERFELD
UNITED STATES MAGISTRATE JUDGE