

EXHIBIT 1

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 18-10464-AA

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JESUS AVILA,
a.k.a. Juan Gonzalez,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Florida

Before: TJOFLAT, MARCUS and BRANCH, Circuit Judges.

BY THE COURT:

Jesus Avila, a federal prisoner proceeding *pro se*, moves for reconsideration of this Court's order dismissing as untimely his appeal from the district court's orders denying his Fed. R. Civ. P. 60(b) motion for relief from an order in his criminal case and his subsequent Fed. R. Civ. P. 59(e) motion for reconsideration.

We allow motions for reconsideration of our orders, provided that the motion is filed within 21 days of the entry of the order. 11th Cir. R. 27-2. A motion for reconsideration cannot be used to re-litigate old matters, raise new arguments, or present evidence that could have been considered prior to the entry of judgment. *Wilchombe v. TeeVee Toons, Inc.*, 555 F.3d 949, 957 (11th Cir. 2009).

Pro se filings are held to a less stringent standard than those drafted by attorneys and are liberally construed. *Tannenbaum v. United States*, 148 F.3d 1262, 1263 (11th Cir. 1998).

Here, Avila's motion for reconsideration is not allowed because he filed it more than 21 days after the entry of the order dismissing his appeal. *See* 11th Cir. R. 27-2. Moreover, he has raised no ground for reconsideration because he merely asserts arguments that he presented or could have presented in his initial brief on appeal or in response to the government's motion. *See Wilchombe*, 555 F.3d at 957.

Accordingly, Avila's motion for reconsideration is DENIED.

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

CASE NUMBER: 8:11-CR-374-T-27MAP
USM NUMBER: 03859-085

vs.

JESUS AVILA, a/k/a Juan Gonzalez

Defendant's Attorney: Alec Hall AFPD

THE DEFENDANT:

☒ pleaded guilty to count(s) One of the Indictment.
☐ pleaded nolo contendere to count(s) which was accepted by the court.
☐ was found guilty on count(s) after a plea of not guilty.

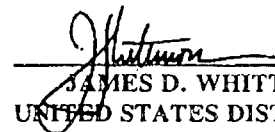
<u>TITLE & SECTION</u>	<u>NATURE OF OFFENSE</u>	<u>OFFENSE ENDED</u>	<u>COUNT</u>
21 U.S.C. §§ 846, 841(a)(1) and 841(b)(1)(A)	Conspiracy to Possess With Intent to Distribute 50 Grams or More of Methamphetamine and 500 Grams or More of a Mixture Containing Methamphetamine	July 4, 2011	One

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s)
☒ Count(s) Two and Three of the Indictment (is)(are) dismissed on the motion of the United States.

IT IS FURTHER ORDERED that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States Attorney of any material change in economic circumstances.

Date of Imposition of Sentence: December 12, 2011


JAMES D. WHITTEMORE
UNITED STATES DISTRICT JUDGE

DATE: December 13th, 2011

**Additional material
from this filing is
available in the
Clerk's Office.**