

Appendix A

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2255,CLOSED,PMH,REF_RR

U.S. District Court
Southern District of Florida (Ft Lauderdale)
CIVIL DOCKET FOR CASE #: 0:17-cv-61953-WJZ

Rigal v. United States of America
Assigned to: Senior Judge William J. Zloch
Referred to: Magistrate Judge Patrick M. Hunt
Case in other court: USDC Southern FL, 12-cr-60088-WJZ
Cause: 28:2255 Motion to Vacate Sentence

Date Filed: 10/03/2017
Date Terminated: 06/27/2019
Jury Demand: None
Nature of Suit: 510 Prisoner: Vacate
Sentence
Jurisdiction: U.S. Government Defendant

Plaintiff**Quelyory Rigal**

represented by **Noticing FPD-FTL**
(954) 356-7436
Email: ftl_ecf@fd.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

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Richard Carroll Klugh, Jr.
25 SE 2nd Avenue
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TERMINATED: 03/21/2019
ATTORNEY TO BE NOTICED

V.

Defendant**United States of America**

represented by **Noticing 2255 US Attorney**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

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ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
10/03/2017	<u>1</u>	MOTION (Complaint) to Vacate Sentence (2255) . NOTE: All further docketing is to be done in the civil case. (Criminal Case # 12-60088), filed by Quelyory Rigal. (Attachments: # <u>1</u> Civil Cover Sheet)(Klugh, Richard) (Entered: 10/03/2017)
10/03/2017	2	Clerks Notice of Judge Assignment to Judge Darrin P. Gayles. (lrz1) (Entered: 10/04/2017)
10/04/2017	<u>3</u>	NOTICE of Attorney Appearance by Thomas Lanigan on behalf of United States of America. Attorney Thomas Lanigan added to party United States of America(pty:dft). (Lanigan, Thomas) (Entered: 10/04/2017)
10/05/2017	4	NOTICE OF COURT PRACTICE. Unless otherwise specified by the Court, every motion shall be double-spaced in Times New Roman 12-point typeface. Multiple Plaintiffs or Defendants shall file joint motions with co-parties unless there are clear conflicts of position. Signed by Judge Darrin P. Gayles on 10/5/2017. (lh00) (Entered: 10/05/2017)
04/23/2018	5	VACATED ENDORSED ORDER per DE# 6 , REFERRING CASE to Magistrate

		Judge Barry S. Seltzer for a ruling on all pretrial, non-dispositive matters, and for a Report and Recommendation on any dispositive matters. Signed by Judge Darrin P. Gayles on 4/23/2018. (lh00) (Entered: 04/23/2018)
04/24/2018	6	ENDORSED ORDER Vacating 5 Order Referring Case to Magistrate Judge. Signed by Judge Darrin P. Gayles on 4/24/2018. (lh00) (Entered: 04/24/2018)
04/24/2018	7	Clerks Notice of Docket Correction re 2 Clerk's Notice of Judge Assignment. Incorrect District Judge Selected; Judge Darrin P. Gayles no longer assigned to case. Case is Assigned to Senior Judge William J. Zloch. (vjk) (Entered: 04/24/2018)
04/25/2018	8	ORDER REFERRING CASE to Magistrate Judge Patrick M. Hunt for disposition of all pre-trial non-dispositive motions and a report and recommendation concerning disposition of all dispositive motions. Signed by Senior Judge William J. Zloch on 4/25/2018. (bc) (Entered: 04/25/2018)
04/26/2018	9	PAPERLESS ORDER requiring Government to file its Response to Movant, Quelyory Rigal's Motion to Vacate Conviction Under 28 U.S.C. 2255, ECF No. 1, up to and including May 25, 2018. Signed by Magistrate Judge Patrick M. Hunt on 4/26/2018. (sl00) (Entered: 04/26/2018)
05/07/2018	10	NOTICE of Attorney Appearance by Alicia E. Shick on behalf of United States of America. Attorney Alicia E. Shick added to party United States of America(pty:dft). (Shick, Alicia) (Entered: 05/07/2018)
05/24/2018	11	RESPONSE TO ORDER TO SHOW CAUSE re 9 Endorsed Order, by United States of America. (Shick, Alicia) (Entered: 05/24/2018)
05/30/2018	12	PAPERLESS ORDER staying decision on Movants Motion to Vacate Conviction under 28 U.S.C. §2255, ECF No. 1. This matter is before this Court sua sponte. The undersigned has confirmed that there is a pending appeal of this matter before the Eleventh Circuit that would directly impact this case. <i>See United States v. Rigal</i> , Case No. 17-13068-CC. In light of this posture, the undersigned will refrain from entering a Report and Recommendation in this matter until after the appeal is resolved. The parties shall advise this Court within ten (10) days of the decision by the Eleventh Circuit whether additional briefing is required, and whether the parties' positions have changed with respect to the relief requested in this pending 2255 motion. Signed by Magistrate Judge Patrick M. Hunt on 5/30/2018. (sl00) (Entered: 05/30/2018)
06/29/2018	13	RESPONSE to 12 Endorsed Order,,, by United States of America. (Shick, Alicia) (Entered: 06/29/2018)
07/05/2018	14	RESPONSE to 12 Endorsed Order,,, by Quelyory Rigal. (Attachments: # 1 Appendix A)(Klugh, Richard) (Entered: 07/05/2018)
09/10/2018	15	RESPONSE/MOTION FOR MISCELLANEOUS RELIEF to 12 Endorsed Order,,, by Quelyory Rigal. (Attachments: # 1 Appendix A - Transcript of Hearing, # 2 Appendix B - Eleventh Circuit Decision)(Klugh, Richard) Modified on 11/6/2018 (ch1). (Entered: 09/10/2018)
09/12/2018	16	PAPERLESS ORDER requiring response to 15 Movant's Response to Order Requiring

		Notice filed by Quelyory Rigal. In her Response, Ms. Rigal requests: 1. to supplement the record with a sentence reduction transcript; 2. further briefing after the Eleventh Circuit mandate issues on her related appeal; and 3. additional discovery and another evidentiary hearing. The Government is ordered to respond on or before September 21, 2018, advising this Court as to its position with respect to Movant's requests. Signed by Magistrate Judge Patrick M. Hunt on 9/12/2018. (PMH) (Entered: 09/12/2018)
09/14/2018	<u>17</u>	Unopposed MOTION for Extension of Time to Respond to Movant's Response to Order Requiring Notice Following Appeal and Supplementing the Record re 16 Order,, by United States of America. Responses due by 9/28/2018 (Attachments: # <u>1</u> Text of Proposed Order)(Lanigan, Thomas) (Entered: 09/14/2018)
09/20/2018	<u>18</u>	ORDER granting <u>17</u> Motion for Extension of Time. Signed by Magistrate Judge Patrick M. Hunt on 9/20/2018. <i>See attached document for full details.</i> (hhr) (Entered: 09/20/2018)
10/22/2018	<u>19</u>	RESPONSE to <u>15</u> Response/Reply (Other), 16 Order,, by United States of America. (Shick, Alicia) (Entered: 10/22/2018)
10/29/2018	<u>20</u>	REPLY to <u>19</u> Response/Reply (Other) by Quelyory Rigal. (Klugh, Richard) (Entered: 10/29/2018)
11/06/2018	<u>21</u>	OMNIBUS ORDER lifting the stay previously entered in this case and granting in part and denying in part <u>15</u> [Motion for Miscellaneous Relief] requested within the Response. <i>See attached document for full details.</i> Oral Argument is set on Movant's Motion to Vacate Conviction for 11/28/2018, at 10:00 AM in the Fort Lauderdale Division, in Courtroom 205C before United States Magistrate Judge Patrick M. Hunt. Signed by Magistrate Judge Patrick M. Hunt on 11/6/2018. (sl00) (Entered: 11/06/2018)
11/27/2018	<u>22</u>	MOTION to Continue re <u>21</u> Order on Motion for Miscellaneous Relief, by United States of America. Responses due by 12/11/2018 (Attachments: # <u>1</u> Text of Proposed Order Order)(Lanigan, Thomas) (Entered: 11/27/2018)
11/27/2018	<u>23</u>	PAPERLESS ORDER granting <u>22</u> Motion to Continue. The oral argument in this case initially set for 11/27/18 is now set for 1/15/2019 at 10:30 a.m. in the Fort Lauderdale Division before Magistrate Judge Patrick M. Hunt. Signed by Magistrate Judge Patrick M. Hunt on 11/27/2018. (hhr) (Entered: 11/27/2018)
01/15/2019	<u>25</u>	PAPERLESS Minute Order for proceedings held before Magistrate Judge Patrick M. Hunt: Status Conference held. Oral Argument on 2255 NOT held on 1/15/2019. Attorney Appearance(s): Richard Carroll Klugh, Jr, Thomas Lanigan, Alicia E. Shick, (Digital 10:32:27) (tw) (Entered: 01/16/2019)
01/16/2019	<u>24</u>	PAPERLESS ORDER Setting Supplemental Briefing Schedule. On or before February 4, 2019, the Plaintiff will file a Supplemental Brief on Conflict of Interest. The Government will have until February 25, 2019, to file any Response to the Plaintiff's Supplemental Brief on conflicts and the Plaintiff will have until March 4, 2019, to file a Reply to the Government's Response. Plaintiff's Supplemental Brief and the Government's Response will be no more than five (5) pages each and the Reply brief will be no more than three (3) pages. Signed by Magistrate Judge Patrick M. Hunt on 1/16/2019. (sl00) (Entered: 01/16/2019)

02/04/2019	<u>26</u>	MOTION to Appoint Counsel by Quelyory Rigal. Responses due by 2/19/2019 (Attachments: # <u>1</u> Appendix A - 11th Circuit rehearing denial, # <u>2</u> Appendix B - excerpts of government's direct appeal brief, # <u>3</u> Appendix C - record of property sale, # <u>4</u> Appendix D - defendant's petition for rehearing)(Klugh, Richard) (Entered: 02/04/2019)
02/25/2019	<u>27</u>	RESPONSE in Opposition re <u>26</u> MOTION to Appoint Counsel filed by United States of America. Replies due by 3/4/2019. (Shick, Alicia) (Entered: 02/25/2019)
03/04/2019	<u>28</u>	REPLY to Response to Motion re <u>26</u> MOTION to Appoint Counsel filed by Quelyory Rigal. (Klugh, Richard) (Entered: 03/04/2019)
03/21/2019	<u>29</u>	ORDER granting <u>26</u> Motion to Appoint Conflict- Free Counsel. Terminating Richard Carroll Klugh, Jr as counsel, appointing the Federal Public Defender's Office and setting April 1, 2019, for the parties to file a status report on the issues raised within the Order. <i>See attached document for full details.</i> Signed by Magistrate Judge Patrick M. Hunt on 3/21/2019. (sl00) (Entered: 03/21/2019)
03/22/2019	30	CLERK'S NOTICE re <u>29</u> Order. *Clerk added Noticing FPD-FTL to Plaintiff/Movant, Quelyory Rigal, pursuant to Order. (jmd) (Entered: 03/22/2019)
03/28/2019	<u>31</u>	NOTICE of Attorney Appearance by Bernardo Lopez on behalf of Quelyory Rigal. Attorney Bernardo Lopez added to party Quelyory Rigal(pty:pla). (Lopez, Bernardo) (Entered: 03/28/2019)
03/28/2019	<u>32</u>	MOTION for Extension of Time to reply to the Court by Quelyory Rigal. Responses due by 4/11/2019 (Lopez, Bernardo) (Entered: 03/28/2019)
03/29/2019	33	PAPERLESS ORDER granting <u>32</u> [Unopposed] Motion for Extension of Time to Comply with Providing the undersigned with a status report up to and including April 12, 2019. Status Report due by 4/12/2019. Signed by Magistrate Judge Patrick M. Hunt on 3/29/2019. (sl00) (Entered: 03/29/2019)
04/11/2019	<u>34</u>	STRICKEN per DE# 36 , STATUS REPORT <i>and Request for Supplemental Briefing and a Hearing on Movant's 28 U.S.C. § 2255 Motion</i> by Quelyory Rigal (Lopez, Bernardo) Modified text on 4/15/2019 (jas). (Entered: 04/11/2019)
04/12/2019	<u>35</u>	MOTION to Strike <u>34</u> Status Report by Quelyory Rigal. Responses due by 4/26/2019 (Lopez, Bernardo) (Entered: 04/12/2019)
04/15/2019	36	PAPERLESS ORDER granting <u>35</u> Motion to Strike. In light of representations made in Movant's Motion to Strike <u>35</u> , Movant's previously filed status report and request for supplemental briefing <u>34</u> is hereby stricken. The Parties shall meet and confer regarding calculation of an agreed corrected loss amount, and shall file a joint status report on this issue on or before May 31, 2019. Signed by Magistrate Judge Patrick M. Hunt on 4/15/2019. (PMH) (Entered: 04/15/2019)
05/31/2019	<u>37</u>	STATUS REPORT <i>Joint Status Report</i> by United States of America (Lanigan, Thomas) (Entered: 05/31/2019)
06/05/2019	38	PAPERLESS ORDER- Status Conference set for 6/7/2019, 02:30 PM in Fort

		Lauderdale Division before Magistrate Judge Patrick M. Hunt on Joint Status Report, ECF No. 37, filed by the parties. Signed by Magistrate Judge Patrick M. Hunt on 6/5/2019. (sl00) (Entered: 06/05/2019)
06/07/2019	<u>39</u>	PAPERLESS Minute Order for proceedings held before Magistrate Judge Patrick M. Hunt: Status Conference held on 6/7/2019. R&R to follow. Attorney Appearance(s): Bernardo Lopez, Thomas Lanigan, (Digital 14:33:46) (tw) (Entered: 06/07/2019)
06/20/2019	<u>40</u>	REPORT AND RECOMMENDATIONS on 28 USC 2255 case recommending granting in part and denying in part <u>1</u> Movant's Motion (Complaint) to Vacate/Set Aside/Correct Sentence. Objections to R&R due by 7/8/2019 Signed by Magistrate Judge Patrick M. Hunt on 6/20/2019. <i>See attached document for full details.</i> (PMH) (Entered: 06/20/2019)
06/27/2019	<u>41</u>	ORDER Adopting <u>40</u> Report and Recommendations. Closing Case. Signed by Senior Judge William J. Zloch on 6/27/2019. <i>See attached document for full details.</i> (bc) (Entered: 06/27/2019)
06/27/2019	<u>42</u>	ORDER denying Certificate of Appealability. Signed by Senior Judge William J. Zloch on 6/27/2019. <i>See attached document for full details.</i> (bc) (Entered: 06/27/2019)


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Transaction Receipt			
08/02/2022 14:26:37			
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Description:	Docket Report	Search Criteria:	0:17-cv-61953-WJZ
Billable Pages:	5	Cost:	0.50

UNITED STATES DISTRICT COURTSouthern District of Florida
Fort Lauderdale Division**Appendix A****UNITED STATES OF AMERICA****v.****QUELYORY A. RIGAL****RESENTENCING
JUDGMENT IN A CRIMINAL CASE**Case Number: **12-60088-CR-DIMITROULEAS**
USM Number: **99758-004**Counsel For Defendant: **Bernardo Lopez, AFPD**
Counsel For The United States: **Thomas Lanigan**
Court Reporter: **Yvette Hernandez****The defendant was found guilty on count(s) 1,2,5,11 and 12 of the indictment.****The defendant is adjudicated guilty of these offenses:**

<u>TITLE & SECTION</u>	<u>NATURE OF OFFENSE</u>	<u>OFFENSE ENDED</u>	<u>COUNT</u>
18 USC 1349	Conspiracy to commit mail fraud and wire fraud	November 2008	1
18 USC 1343	Wire fraud	June 2007	2,5 and 11
18 USC 1341	Mail fraud	April 2007	12

The defendant is sentenced as provided in the following pages of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.**It is 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 material changes in economic circumstances.**

Verified via PACER

**AMBER L.
HARTLEY**Digitally signed by AMBER
HARTLEY
DN: c=US, o=U.S. Government,
ou=Dept of Justice, ou=BOP,
cn=AMBER HARTLEY,
0.9.2342.19200300.100.1.1=1500
1002976288
Date: 2019.08.14 11:07:39 -05'00'Date of Imposition of Re-Sentence: **8/13/2019**

William P. Dimitrouleas
 United States District Judge
Date: August 13, 2019

DEFENDANT: QUELYORY A. RIGAL
CASE NUMBER: 12-60088-CR-DIMITROULEAS

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 156 months as to each of Counts 1, 2, 5, 11 and 12 to run concurrently with each other.

The court makes the following recommendations to the Bureau of Prisons: The Court recommends designation to a South Florida facility.

The defendant is remanded to the custody of the United States Marshal.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

DEPUTY UNITED STATES MARSHAL

DEFENDANT: QUELYORY A. RIGAL
CASE NUMBER: 12-60088-CR-DIMITROULEAS
SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 3 years as to each of Counts 1, 2, 5, 11 and 12 to run concurrently to each other.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

The defendant shall cooperate in the collection of DNA as directed by the probation officer.

The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

1. The defendant shall not leave the judicial district without the permission of the court or probation officer;
2. The defendant shall report to the probation officer and shall submit a truthful and complete written report within the first fifteen days of each month;
3. The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
4. The defendant shall support his or her dependents and meet other family responsibilities;
5. The defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
6. The defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
7. The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
8. The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
9. The defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
10. The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
11. The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
12. The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
13. As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: QUELYORY A. RIGAL

CASE NUMBER: 12-60088-CR-DIMITROULEAS

SPECIAL CONDITIONS OF SUPERVISION

Cooperation with the IRS - The defendant shall cooperate fully with the Internal Revenue Service in determining and paying any tax liabilities. The defendant shall provide to the Internal Revenue Service all requested documents and information for purposes of any civil audits, examinations, collections, or other proceedings. It is further ordered that the defendant file accurate income tax returns and pay all taxes, interest, and penalties due and owing by him/her to the Internal Revenue Service.

Credit Card Restriction - The defendant shall not possess any credit cards, nor shall he be a signer on any credit card obligations during his term of supervision, without the Court's approval.

Employment Requirement - The defendant shall maintain full-time, legitimate employment and not be unemployed for a term of more than 30 days unless excused for schooling, training or other acceptable reasons. Further, the defendant shall provide documentation including, but not limited to pay stubs, contractual agreements, W-2 Wage and Earnings Statements, and other documentation requested by the U.S. Probation Officer.

Financial Disclosure Requirement - The defendant shall provide complete access to financial information, including disclosure of all business and personal finances, to the U.S. Probation Officer.

No New Debt Restriction - The defendant shall not apply for, solicit or incur any further debt, included but not limited to loans, lines of credit or credit card charges, either as a principal or cosigner, as an individual or through any corporate entity, without first obtaining permission from the United States Probation Officer.

Permissible Search - The defendant shall submit to a search of his/her person or property conducted in a reasonable manner and at a reasonable time by the U.S. Probation Officer.

Self-Employment Restriction - The defendant shall obtain prior written approval from the Court before entering into any self-employment.

DEFENDANT: QUELYORY A. RIGAL

CASE NUMBER: 12-60088-CR-DIMITROULEAS

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$500.00	\$0.00	\$7,104,473.32

The defendant must make restitution (including community restitution) to the attached list of payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>NAME OF PAYEE</u>	<u>TOTAL LOSS*</u>	<u>RESTITUTION ORDERED</u>
		\$7,104,473.32

Restitution with Imprisonment - It is further ordered that the defendant shall pay restitution in the amount of \$7,104,473.32. During the period of incarceration, payment shall be made as follows: (1) if the defendant earns wages in a Federal Prison Industries (UNICOR) job, then the defendant must pay 50% of wages earned toward the financial obligations imposed by this Judgment in a Criminal Case; (2) if the defendant does not work in a UNICOR job, then the defendant must pay a minimum of \$25.00 per quarter toward the financial obligations imposed in this order. Upon release of incarceration, the defendant shall pay restitution at the rate of 10% of monthly gross earnings, until such time as the court may alter that payment schedule in the interests of justice. The U.S. Bureau of Prisons, U.S. Probation Office and U.S. Attorney's Office shall monitor the payment of restitution and report to the court any material change in the defendant's ability to pay. These payments do not preclude the government from using other assets or income of the defendant to satisfy the restitution obligations.

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

**Assessment due immediately unless otherwise ordered by the Court.

DEFENDANT: QUELYORY A. RIGAL
CASE NUMBER: 12-60088-CR-DIMITROULEAS
SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

A. Lump sum payment of \$500.00 due immediately.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

This assessment/fine/restitution is payable to the CLERK, UNITED STATES COURTS and is to be addressed to:

U.S. CLERK'S OFFICE
ATTN: FINANCIAL SECTION
400 NORTH MIAMI AVENUE, ROOM 08N09
MIAMI, FLORIDA 33128-7716

The assessment/fine/restitution is payable immediately. The U.S. Bureau of Prisons, U.S. Probation Office and the U.S. Attorney's Office are responsible for the enforcement of this order.

Joint and Several with Co-Defendants

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

<u>CASE NUMBER</u> <u>DEFENDANT AND CO-DEFENDANT NAMES</u> <u>(INCLUDING DEFENDANT NUMBER)</u>	<u>TOTAL AMOUNT</u>	<u>JOINT AND SEVERAL</u> <u>AMOUNT</u>
co-defendant Juan Carlos Sanchez	\$7,104,473.32	\$7,104,473.32

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
BROWARD DIVISION

FILED BY <u>111</u>	D.C.
AUG 20 2020	
ANGELA E. NOBLE CLERK U.S. DIST. CT. S. D. OF FLA. - FT. LAUD.	

QUELYORY RIGAL,
Petitioner/ Defendant

V.

Case No.: 12-cr-60088-WPD

UNITED STATES OF AMERICA,
Respondent/ Plaintiff

Appendix B

**RENEWED EMERGENCY MOTION FOR REDUCTION IN TERM OF IMPRISONMENT UNDER 18 U.S.C 3582
(c)(1)(A)(i) AMENDED BY THE FIRST STEP ACT OF 2018.**

COMES NOW, QUELYORY RIGAL, in Propria Persona (Pro-Se), acting Sui Juris, humble and respectfully request a reduction in her term of imprisonment to time served pursuant to 18 U.S.C 3582 (c)(1)(A)(i) under "extraordinary and compelling reasons which is consistent with currently applicable Sentencing Commission Policy Statements.

BACKGROUND

A federal grand jury charged Ms. Rigal and others with conspiracy to commit wire fraud and mail fraud. Ms. Rigal was found guilty on those charges following a jury trial. Prior to sentencing, counsel for Ms. Rigal filed sentencing objections. The judge Honorable William J. Zloch sentence Ms. Rigal to a 200-months term of imprisonment plus 36-months of supervised release. Following sentencing, retained counsel moved for leave to allow Ms. Rigal to appeal in forms pauperis and to have appellate counsel appointed Mr. Richard Klugh to represent her. The court granted the motion and appointed Mr. Richard Klugh to represent her in appeal. Ms. Rigal's conviction and sentence were affirmed on appeal.

On April 25, 2016, Ms. Rigal, by and through counsel counsel Richard Klugh, filed a motion for a new trial. The motion was based on newly-discovered evidence demonstrating the government's violation of Brady v. Maryland, 373 U.S 83 (1963) and Giglio v. United States, 405 U.S 150 (1972). The District court, following an evidentiary hearing, denied the motion for a new trial. Ms. Rigal appealed, and on appeal, the court of appeals affirmed the denial.

On October 3rd, 2017, Ms. Rigal through counsel, filed a motion pursuant to 28 U.S.C 2255 raising the following grounds for relief:

- 1.) ineffective assistance of sentencing and appellate counsel in failing to resolve factual inadequacies in the government's loss calculation for sentencing.
- 2.) Failure to disclose material exculpatory evidence in violation of Brady and Giglio. Counsel for both parties filed a joint status report. The status report included stipulated resolution to the 28 U.S.C 2255 motion. Specifically, as to issue one raised in the 28 U.S.C 2255 motion, the parties stipulated that a proper calculation of loss at the time of Ms. Rigal's initial sentencing would have brought the total amount of sentencing below the \$ 7 million threshold under U.S.S.G 2B1.1 (b)(1)(K) of the sentencing guidelines applicable at the time of her initial sentencing. As to issue two, the parties stipulated that Ms. Rigal agreed to withdraw that issue. Based on the stipulation of the parties the Magistrate judge issued a report and recommendations. Specifically, the Magistrate judge recommend that Ms. Rigal's 28 U.S.C 2255 motion be Granted as to issue one that she be re-sentenced with the advisory range of 135 to 168 months. As to issue two, the Magistrate judge recommended that the motion be denied with prejudice. Judge Zloch adopted the report and recommendations of the Magistrate judge and ordered that Ms. Rigal's sentence "will be vacated and the court will be re-sentence Ms. Rigal to a term of imprisonment, taking into account the correct sentencing range based on the correct calculation of her loss amount."

SEAN M. MCGEE

[Signature]

On July 1st, 2019, Judge ZUCCH issued an order of recusal and the matter was reassigned to Honorable Judge William P. Dimitrouleas. On August 1st, 2019, Ms. Rigal filed a motion for downward variance and sentencing memorandum requesting a downward variance from advisory range of 135 to 168 to a sentence of 120 months. On August 13, 2019, the Honorable Judge Dimitrouleas heard both side arguments and re-sentenced Ms. Rigal to 156 months of imprisonment plus 36 months of supervised release.

On March 27, 2020 due to the global pandemic of CORONAVIRUS, The United States President Donald J. Trump took action and implemented the emergency CARES ACT and the Attorney General William Barr exercised emergency authority under the CARES ACT to help incarcerated people by increasing home confinement or whatever he determines appropriate. The Department of Justice through the Federal Bureau of Prison issued a list of inmates qualified to receive release to home confinement under The CARES ACT. This list was based on a very strict criteria as non-violent offense, minimum risk offender under PATTERN (Prisoner Assessment Tool Targeting Estimated Risk and Need), excellent conduct during incarceration time, first time offender, also based on programming and have completed a high percentage of the sentence. Ms. Quelyory Rigal was one of few beneficiaries of this Executive Order.

On June 3rd, 2020, Ms. Rigal was placed on quarantine at F.C.I TALLAHASSEE and was released to home confinement on June 18, 2020. (See attached documents).

LEGAL STANDARD

The First Step Act of 2018 in a section titled "increasing the use and transparency of compassionate release", amended 18 U.S.C 3582 (c)(1)(A) to allow courts to modify sentencing not only upon motion of the director of the BOP but also upon "motion of the defendant after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prison to bring a motion on the defendant's behalf or the lapse of 30 days from the receipt of such a request by the Warden of the defendant's facility "18 U.S.C 3582 (c)(1)(A)". A court may now modify a defendant's sentence if it find on either the BOP's or the defendant's motion that "extraordinary and compelling reasons" warrant such a reduction is consistent with applicable Policy Statement issued by the Sentencing Commission. The Policy Statement regarding compassionate release sets forth three specific reasons that are considered "extraordinary and compelling " as well as a "catch all provisions" recognizing as "extraordinary and compelling " any other reason as determined by the director of the Bureau of Prison. United States Sentencing Guidelines Manual 1B1.13 comment note 1 (U.S. Sentencing Commission 2018), it also requires that the defendant is not a danger to the safety to any other person or the community, and that the court's determination is in line with the factors set forth in 18 U.S.C 3553 (a).

EXTRAORDINARY AND COMPELLING REASONS

Reason #1:

The world is experiencing unprecedented times because of the CORONAVIRUS. This virus is seemingly uncontrollable and has spread like wildfire throughout the country and the entire world. The global economy is in complete disarray and the daily death toll is at least 2000 or more people a day, sometimes surpassing that amount. Due to this global pandemic Ms. Rigal was released by the FBOP to home confinement under special conditions. She is living at: 6120 NW 116TH PL Apt. 411, Doral Florida, 33178. She's not obliged to work, specially here in Miami. When she was released the situation in Miami wasn't as bad as now. A family's friends in good faith is financially helping her with the rent apartment, utilities, food, clothing, etc. On July 8, 2020 Florida State was declared a global epicenter of COVID-19 reporting 8,000 and more positive cases daily. All the business of this family's friend had been extremely affected at the point that he had to closed. Ms. Rigal has been trying to obtain a job under the limited conditions of the probation (only job pay with W-2). As this Honorable Judge knows the unemployment is uncontrollable, specially in south Florida, we are in a economic famine, that's the daily news. There are some options to work from home as telemarketing, online sales, customer service representatives, but all these employers pay per hours, per production and most of this jobs are not consistent, they offer payments as self employed using 1099 IRS form. However, are a lawful sources of income. Ms. Rigal had keep and excellent conduct and is avoiding to violate the "probation restrictions", but the court needs to understand that we are in a global emergency situation, which is worse in South Florida, the reality is that many people are loosing their lives. Meanwhile Ms. Rigal needs to survive. Without any financial income is impossible afford the rent and expenses in the apartment she's living now at Doral Florida. However, the same person who's helping her now is the owner for more than 20 years of a house located at Orlando Florida, in 1716 Lake Vista Ct. Clearmont, FL 34714, which is vacant and could be used by Ms. Rigal and she doesn't have to pay the mortgage, only the basics utilities. This can help her to survive this pandemic and to adjust to the society in a proper transition.



now, in order to be transferred to Orlando, Florida, get a job and adjust to the society in this emergency situation in a successful matter, she humbly and respectfully requests that this court grant her a sentence reduction to time served. She had already served almost 100 months of her sentence, which is an over served time if we applied the First Step Act Good Time Credit. [See attached The First Step Act of 2018 documents]. If the relief is granted Ms. Rigal can work in Orlando Florida, as telemarketers, customer service representative, as she was working in UNICOR at FCI TALLAHASSEE gaining a real job experience and also got a customer service apprenticeship classes. UNICOR which is Federal Prison Industries also pays per sales, just commissions, they sale timeshares for Orlando theme parks. [See Attached Inmate Education Data Sheet and UNICOR work performance evaluation record].

The global emergency situation and specially the spread of COVID-19 in South Florida standing alone is compelling enough reason to justify her sentence reduction to time served.

REASON # 2:

If Ms. Rigal had been sentenced following the First Step Act, and/or all the new U.S.S.G. amendments the sentence would be lower than 156 months of imprisonment that she is serving now. [See attached document Information regarding re-calculated sentences issued by FBOP]. Because First Step Act focuses on rehabilitation, combating recidivism, family reunification, and sentencing reform via changes to penalties for non violent federal offense. In Ms. Rigal particular case, she is first time offender category I involved in "white collar" offense which if she had been sentenced today the 2 (two) points enhancement for "abuse of trust" and the 2 (two) points enhancement for sophisticated means could not apply because Ms. Rigal prior job was selling pots and pans without any experience in real estate business at all. "Abuse of trust" does not applied to her at all because is a charge and/or enhancement stipulates as per United States Sentencing Guidelines 2018 [U.S.S.G. 2018]: "3B1.3. If the defendant abused a position of public or private trust, or used a special skill, in a matter that significantly facilitated the commission or concealment of the offense, increase by 2 levels. This adjustment may not be employed if an abuse of trust or skill is included in the base offense level or specific offense characteristic. If this adjustment is based upon an abuse of a position of trust, it may be employed in addition to an adjustment under 3B1.1 (Aggravating Role); if this adjustment is based solely on the use of a special skill, it may not be employed in addition to an adjustment under 3B1.1 (Aggravating Role)." As per the statute is very clear that this 2 (two) points adjustment does not apply to Ms. Rigal's role nor participation, this can be confirmed in the Pre-sentencing report Investigation (PSR). Also due to her zero criminal history category I she should be consider to receive the lower end of the sentencing guidelines. This is an extraordinary and compelling reason that the court can granted in order to avoid an injustice in the way that her sentence was calculated. If Ms. Rigal had been sentenced following the First Step Act she should have a total offense level 29 or lower with absolutely no criminal history at all, not even a minor citations or any arrest [PSR 56-61] category I. An offense level 29 and criminal history category I yield an advisory sentencing range of 87 - 108 months. Due to Ms. Rigal first time offender status she should have received 87 or less months imprisonment, which this sentence could be sufficient, but not greater than necessary as per sentencing factors pursuant to 18 U.S.C 3553 (a), also avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct.

It should be noted that co-defendant Sandra Campos, who was also responsible for loss between \$2.5 million and \$ 7 million, [PSR 35] "second time offender, second indictment and fugitive", was sentenced to time served and released on May 6, 2016. Co-defendant Juan Carlos Sanchez, who was substantially more culpable, the mastermind of the fraud, the person who taught Ms. Rigal his less-than-legal real estate system, who had also been involved in uncharged, but undisputed criminal activities ended up with a final sentence of 114 months. The government filed a motion for sentence reduction on behalf of Sanchez based on substantial assistance. During a hearing on that motion, the government, in fact the same prosecutor that handled Ms. Rigal's trial, sentencing and re-sentencing, noted a key fact of Sanchez's criminal past. Specifically, the prosecutor noted that Sanchez was able to provide substantial assistance to the government in part because for decades, Sanchez laundered illegal proceeds from a drug cartel. That information was provided to the District Judge who sentenced Sanchez and Ms. Rigal initially and who re-sentenced Sanchez based on the government motion. As all the appeal records showed, Ms. Rigal was unaware of Sanchez's criminal activities. She had no prior criminal involvement whatsoever prior to being dragged into Sanchez's criminal scheme when fatefully she became a student at Sanchez's school. Co-defendant Osbella Lazard, this was her second indictment, she was sentenced to just 25 month's imprisonment. Co-defendant Dayanara Montero, this was her second indictment, she was sentenced to 22 month's imprisonment. However, a sentence reduction to Ms. Rigal of time served which is more than 108 months "the higher end of the offense level 29" remove any unwarranted sentencing disparity.

A.

AVAILABLE FOR RELIEF UNDER 18 U.S.C. 3582 (c)(1)(A)

Under the newly amended 3582 (c)(1)(A), Ms. Rigal has standing to bring this motion because more than 30 days elapse between her reduction in sentence request to the Warden in F.C.I Tallahassee and the appeal to BOP Southeast Regional Office and a response. [See attached documents in support of her request to the BOP in Tallahassee and appeal to FBOP Southeast Regional Office].

This Honorable District Judge could thus: reduce the term of imprisonment to time served, after considering the factors set forth in section 3553(a) to the extent that they are applicable, if it finds that extraordinary and compelling reason warrant such a reduction... And that such a reduction is consistent with applicable Policy Statement issued by the Sentencing Commission, 18 U.S.C. 3582 (c)(1)(A). To determine what the Sentencing Commission considers "extraordinary and compelling", the court may turn to the United States Sentencing Guidelines 1B1.13. Now, the court, as opposed to the director of the BOP, can determine that "there exist in the defendant's case and extraordinary and compelling reason other than, or in combination with, the reason described in subdivision (A) through (C) and grant relief on that basis. The pandemic COVID-19 and its devastating consequences in South Florida standing alone is extraordinary and compelling reason to justify Ms. Rigal's sentence reduction to time served.

SAFETY TO OTHERS

Ms. Rigal offense was not a violent one. She has zero violent criminal history during her entire life, and has zero incident on her BOP file, demonstrating has an excellent conduct. Due to this excellent conduct in the BOP records and other criteria Ms. Rigal was released to home confinement, she's actually living at 6120 NW 116TH PL, Apt 411, Doral, FL 33178. Prior and during her incarceration nothing in her record indicates that Ms. Rigal poses any threat to the community. Pursuant to 3142 (g), Ms. Rigal does not pose a danger to any other person or the community. A clear prove of this is that the DOJ and BOP approved her released to home confinement on June 18, 2020, where she continues with an excellent record.

WEIGHING 3553 (a) FACTORS

Ms. Rigal offense was very serious. But she has been in custody since May 3rd, 2012 almost 100 months. If afforded the relief she requests to time served, that sanction adequately express the seriousness of the offense, deters criminal conduct, and protects the public. The sentence reduction to time served does not represent sentence disparities. The applicable 3553 (a) factors support Ms. Rigal's requests for compassionate release under extraordinary and compelling reasons.

CONCLUSION

Pursuant to 18 U.S.C. 3582 (c)(1)(a)(i), there is factual extraordinary and compelling reasons that could warrant a reduction of Ms. Rigal's sentence, that Ms. Rigal does not pose a danger to any other person or the community, that the 3553 (a) factors support a reduction, and that the reduction is consistent with currently applicable Sentencing Commission Policy Statements.

Ms. Rigal humble and respectfully request to this honorable court to grant a sentence reduction to time served. She is very mindful of her past and present situation, after being incarcerated in Tallahassee prison which is not the same as a camp, she appreciated more the values and the life. She's asking for mercy and compassion in this global emergency situation and ask for an opportunity to restart her life in a proper and more conscience way. Again, she humble and respectfully request to this Honorable Judge a sentence reduction to time served. Respectfully submitted on this 17th Day of August 2020.



QUELYORY RIGAL

**Case No.: 12-cr-60068-WPD
6120 NW 116TH PL, Apt 411
DORAL, FLORIDA 33178**

CERTIFICATE OF SERVICE

I, QUELYORY RIGAL, declare under penalty of perjury that I have served a true and correct copy of the foregoing to:

RENEWED EMERGENCY MOTION FOR REDUCTION IN TERM OF IMPRISONMENT UNDER 18 U.S.C 3582 (c)
(1)(A)(i) AMENDED BY THE FIRST STEP ACT OF 2018.

Upon the following addresses, by placing the same in the sealed envelope, bearing sufficient postage for delivery via the United States Postal Service to:

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
BROWARD DIVISION
299 E. BROWARD BLVD
FORT LAUDERDALE, FL 33301

And deposited in the postal box outgoing mail located at 6120 NW 116TH PL, DORAL, FLORIDA 33178, on this 17th Day of August 2020.



QUELYORY RIGAL
Case No.: 12-cr-60088-WPD
6120 NW 116TH PL. Apt. 411
DORAL, FLORIDA 33178

Case 0:12-cr-60088-WPD Document 621 Entered on FLSD Docket 08/21/2020 Page 1 of 2

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA,

CASE NO. 12-60088-CR-DIMITROULEAS

Plaintiff,

vs.

QUELYORY A. RIGAL,

Defendant.

Appendix C

ORDER

THIS CAUSE is before the Court on the *pro se* Defendant's August 20, 2020 Renewed Emergency Motion for Reduction of Sentence [DE-620]. The Court previously deferred ruling and received a December 13, 2019 response from the Government. [DE-585]. The Court agreed with the Government that Rigal had failed to show that extraordinary and compelling reasons existed to justify a reduction of sentence and denied the request on December 16, 2019 [DE-586]. She apparently now has been furloughed to home confinement by the Bureau of Prisons. Although it is unclear, it seems that she views her economic situation in Miami to be an emergency and seeks a time-served sentence or a transfer to Orlando. The Bureau of Prisons granted her the furlough; they can decide to transfer her furlough to Orlando. No extraordinary or compelling reasons exist for this Court to grant either relief¹ requested. The Court is reminded of the children's book by Laura Joffe Numeroff, "If you give a mouse a cookie, they will ask for a glass of milk".

Wherefore the Motion [DE-620] is Dismissed, and alternatively Denied.

¹ Even if the §3553 factors supported a reduction to time served, which they do not, such a reduction would likely be accompanied by the same home confinement restrictions that are the basis for her "emergency motion".

The Clerk is directed to mail a copy of this Order to Quelyory A. Rigal at the address below.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this
21st day of August, 2020.


WILLIAM P. DIMITROULEAS
United States District Judge

Copies furnished to:

Tom Lanigan AUSA

Quelyory A. Rigal,
6120 NW 116 Pl., #411
Doral, Fl. 33178

Appendix D

AO 242 (Rev. 08/77) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Instructions

1. **Who Should Use This Form.** You should use this form if
 - you are a federal prisoner and you wish to challenge the way your sentence is being carried out (for example, you claim that the Bureau of Prisons miscalculated your sentence or failed to properly award good time credits);
 - you are in federal or state custody because of something other than a judgment of conviction (for example, you are in pretrial detention or are awaiting extradition); or
 - you are alleging that you are illegally detained in immigration custody.
2. **Who Should Not Use This Form.** You should not use this form if
 - you are challenging the validity of a federal judgment of conviction and sentence (these challenges are generally raised in a motion under 28 U.S.C. § 2255);
 - you are challenging the validity of a state judgment of conviction and sentence (these challenges are generally raised in a petition under 28 U.S.C. § 2254); or
 - you are challenging a final order of removal in an immigration case (these challenges are generally raised in a petition for review directly with a United States Court of Appeals).
3. **Preparing the Petition.** The petition must be typed or neatly written, and you must sign and date it under penalty of perjury. A false statement may lead to prosecution.
4. **Answer all the questions.** You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit any legal arguments, you must submit them in a separate memorandum. Be aware that any such memorandum may be subject to page limits set forth in the local rules of the court where you file this petition. If you attach additional pages, number the pages and identify which section of the petition is being continued. All filings must be submitted on paper sized 8½ by 11 inches. Do not use the back of any page.
5. **Supporting Documents.** In addition to your petition, you must send to the court a copy of the decisions you are challenging and a copy of any briefs or administrative remedy forms filed in your case.
6. **Required Filing Fee.** You must include the \$5 filing fee required by 28 U.S.C. § 1914(a). If you are unable to pay the filing fee, you must ask the court for permission to proceed in forma pauperis – that is, as a person who cannot pay the filing fee – by submitting the documents that the court requires.
7. **Submitting Documents to the Court.** Mail your petition and 4 copies to the clerk of the United States District Court for the district and division in which you are confined. For a list of districts and divisions, see 28 U.S.C. §§ 81-131. All copies must be identical to the original. Copies may be legibly handwritten.

If you want a file-stamped copy of the petition, you must enclose an additional copy of the petition and ask the court to file-stamp it and return it to you.
8. **Change of Address.** You must immediately notify the court in writing of any change of address. If you do not, the court may dismiss your case.

0:22-CV-60180-WPD

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the
Southern District of Florida

FILED BY ALM D.C.

JAN 25 2022

ANGELA E. NOBLE
CLERK U.S. DIST. CT.
S.D. OF FLA. - FT. LAUD.

QUELYORY A. RIGAL

Petitioner

v.

UNITED STATES OF AMERICA /
DEPARTMENT OF JUSTICE /
FEDERAL BUREAU OF PRISON /
MIAMI RM

Respondent

Case No. _____

(Supplied by Clerk of Court)

(name of warden or authorized person having custody of petitioner)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: QUELYORY A. RIGAL
- (b) Other names you have used: N/A
2. Place of confinement:
 - (a) Name of institution: FEDERAL BUREAU OF PRISON / MIAMI RM (HOME CONFINEMENT)
 - (b) Address: ACTUALLY IN HOME CONFINEMENT UNDER THE CARES ACT. THE ADDRESS IS 19600 NW 47th PL
MIAMI GARDENS, FLORIDA 33055.
 - (c) Your identification number: 99758-004
3. Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain: _____
4. Are you currently:
☐ A pretrial detainee (waiting for trial on criminal charges)
☒ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
 - (a) Name and location of court that sentenced you: U.S. DISTRICT COURT. SOUTHERN DISTRICT OF
FLORIDA. (FT. LAUDERDALE)
 - (b) Docket number of criminal case: 0:12-cr-60088
 - (c) Date of sentencing: Oct. 16, 2013. (Incarcerated since May 3rd, 2012)☐ Being held on an immigration charge
☐ Other (explain): _____

Decision or Action You Are Challenging

5. What are you challenging in this petition:
☒ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

- ☐ Pretrial detention
☐ Immigration detention
☐ Detainer
☒ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
☐ Disciplinary proceedings
☐ Other (explain): _____

6. Provide more information about the decision or action you are challenging:

- (a) Name and location of the agency or court: I requested a Good Time Credit based on the First Step Act of 2018, applied to all the qualified inmates at F.C.I Tallahassee and the rest of the B.O.P.
(b) Docket number, case number, or opinion number: I am attaching all the Administrative remedies.
(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):
All the department had ignored my requests, none of them answered anything.

- (d) Date of the decision or action: No decision nor action has been taken.

Your Earlier Challenges of the Decision or Action

7. First appeal

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☒ Yes ☐ No

(a) If "Yes," provide:

- (1) Name of the authority, agency, or court: REM Miami, Case manager for Home confinement and Federal Correctional Institution, Tallahassee, Florida.
(2) Date of filing: REM Miami filed on May 31, 2021 & FCI Tallahassee (last Request) 09/10/2021.
(3) Docket number, case number, or opinion number: They Used the inmate number 99758-004
(4) Result: Not answers at all. Totally silence.
(5) Date of result: N/A
(6) Issues raised: I requested a Good Time Credit based on the First Step Act of 2018, applied ALREADY all the qualified inmates at F.C.I Tallahassee and the rest of the B.O.P. facilities. I am under the criteria to obtain the Good Time Credit because my case is under the "white collar" consideration, excellent conduct, major programming as UNICOR. Under the Act, I overserved the sentence for MORE THAN ONE YEAR. THE TWO THIRD DATE or GTC was on 01/01/2021. This situation is unconstitutional and violate all the Statutes, including the Act signed and approved by Honorable Ex-President D. Trump.

(b) If you answered "No," explain why you did not appeal: _____

8. Second appeal

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☒ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: Bureau of Prison, Southeast Regional Office.
3800 Camp Creek PK SW, Building 2000, Atlanta GA. (BOP REGIONAL OFFICE)

(2) Date of filing: JUNE 22nd, 2021.

(3) Docket number, case number, or opinion number: REMEDY ID: 1092341-R1

(4) Result: They told me that I did not sent the request to Tallahassee, I proved I did it.

(5) Date of result: August 28, 2021.

(6) Issues raised: I requested a Good Time Credit based on the First Step Act of 2018, applied
ALREADY all the qualified inmates at F.C.I Tallahassee and the rest of the B.O.P. facilities.
I am under the criteria to obtain the Good Time Credit because my case is under the "white
collar" consideration, excellent conduct, major programming as UNICOR. Under the Act,
I overserved the sentence for MORE THAN ONE YEAR.

THE TWO THIRD DATE or GTC was on 01/01/2021. This situation is unconstitutional and violate
all the Statutes, including the Act signed and approved by Honorable Ex-President D. Trump.

(b) If you answered "No," explain why you did not file a second appeal:

9. Third appeal

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☒ Yes

☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: Federal Bureau Of Prison, Designation and
Sentence Computation Center, 346 Marine Forces Drive, Grand Prairie, Texas 75051.

(2) Date of filing: First one on August 11th, 2021 & Second One on September 10th, 2021.

(3) Docket number, case number, or opinion number: REMEDY ID: 1092341 - R1

(4) Result: Sent my The Computation Sheet showing the Two Third release date as 01/01/2021.

(5) Date of result: September 16th, 2021.

(6) Issues raised: I requested a Good Time Credit based on the First Step Act of 2018, applied
ALREADY all the qualified inmates at F.C.I Tallahassee and the rest of the B.O.P. facilities.
I am under the criteria to obtain the Good Time Credit because my case is under the "white
collar" consideration, excellent conduct, major programming as UNICOR. Under the Act,
I overserved the sentence for MORE THAN ONE YEAR. (See the Calculation Sheet Issue by BOP).

THE TWO THIRD DATE or GTC was on 01/01/2021. This situation is unconstitutional and violate
all the Statutes, including the Act signed and approved by Honorable Ex-President D. Trump.

(b) If you answered "No," explain why you did not file a third appeal:

10. Motion under 28 U.S.C. § 2255

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☒ Yes

☐ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☒ Yes

☐ No

If "Yes," provide:

(1) Name of court: U.S. DISTRICT COURT, SOUTHERN DISTRICT OF FLORIDA (FT. LAUDERDALE)(2) Case number: 17-cv-61953(3) Date of filing: 10/03/2017.(4) Result: Granting in part (Sentence reduction on 08/13/2019) & denied in part.(5) Date of result: 06/27/2019(6) Issues raised: 1.) Ineffective assistance of sentencing and appellate counsel in failing to resolve factual inaccuracies in the government's loss calculation for sentencing.2.) Failure to disclose material exculpatory evidence in violation of Brady and Giglio.

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes☒ No

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence:
- Because I already tried that via and the "counsel" appointed by the court Mr. Bernardo Lopez told me that the First Step Act was not a valid Act yet. The matter fact is that the First Step Act was and is valid, signed and approved by Honorable Ex-President Donald J. Trump, but the counsel was lack of knowledge about it. Also, the manner how Mr. Lopez conduct the defense was ineffective and harmful to petitioner, because he failed to request a Complete Forensic Audit Account on the restitution amount and the appearance of a Bank fraud expert as Mr. Walker F. Todd. (Affidavit Attached to this form).

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

☐ Yes☒ No

If "Yes," provide:

(a) Date you were taken into immigration custody: _____

(b) Date of the removal or reinstatement order: _____

(c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes☐ No

If "Yes," provide:

(1) Date of filing: _____

(2) Case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Issues raised: _____

(d) Did you appeal the decision to the United States Court of Appeals?

☒ Yes

☐ No

If "Yes," provide:

(1) Name of court: UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT.

(2) Date of filing: 12/27/2019.

(3) Case number: 19-13219-KK

(4) Result: affirmed

(5) Date of result: 05/14/2020.

(6) Issues raised: Unwarranted sentencing disparity under 18 U.S.C. 3553 (a) (6).

12. Other appeals

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes

☒ No

If "Yes," provide:

(a) Kind of petition, motion, or application: _____

(b) Name of the authority, agency, or court: _____

(c) Date of filing: _____

(d) Docket number, case number, or opinion number: _____

(e) Result: _____

(f) Date of result: _____

(g) Issues raised: _____

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: Violation of the Statutes pursuant to First Step Act of 2018.

(a) Supporting facts (Be brief. Do not cite cases or law.):

Based on the First Step Act of 2018, applied ALREADY all the qualified inmates at F.C.I Tallahassee and the rest of the B.O.P. facilities. I am under the criteria to obtain the Good Time Credit because my case is under the "white collar" consideration, excellent conduct, major programming as UNICOR. Under the Act, I overserved the sentence for MORE THAN ONE YEAR. See the Calculation Sheet Issue by BOP showing the two third date on 01/01/2021. (Attached also the PSA GTC Calculation Sheet)

(b) Did you present Ground One in all appeals that were available to you?

☐ Yes

☒ No

GROUND TWO: The entire amount of the Restitution or loss amount which does not support nor justify the sentence and/or judgment against the petitioner. All the prior counsels or attorneys failed to defend the petitioner, causing harmful consequences to her entire life. All this past 10 years, she has been crying for justice and truth.

(a) Supporting facts (Be brief. Do not cite cases or law.):

Before the re-sentencing hearing of 08/13/2019, The petitioner request to both attorney: appellate and resenting counsel to request a complete forensic audit account on the restitution to prove that the entire case has not merits. There is no loss cause by petitioner, and she requested an expert in bank fraud as Mr. Walker P. Todd, which still is a law's practitioner in federal cases. Petitioner is attaching the Affidavit of Walker P. Todd showing that there is not loss at all.

(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes

☒ No

GROUND THREE: The restitution amount is still wrong because even after the re-sentencing court the amount is still the same and was not reduced, even the resentence was based on "less" restitution amount.

(a) Supporting facts (Be brief. Do not cite cases or law.):

Before the re-sentencing court the restitution amount was \$7,104,473.32 and the motion 2255 was granted in part based on the restitution to be under the \$7 millions, but even after the resentencing hearing the amount in the judgment and the papers is still the same as before.

(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes

☒ No

GROUND FOUR:

(a) Supporting facts (Be brief. Do not cite cases or law.):

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not: I was unable to present a fair defense because I was forced to have attorney all the time and all of them were ineffective.

Request for Relief

15. State exactly what you want the court to do: I humbly request an immediate release due to the over served sentence. Due to the ineffective assistance of all counsel and the unfair defense, I am requesting the dismissal of the judgement, and/or exoneration of the charges and restitution. I am innocent, and I will continue with my defense until God tell me otherwise.

Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: January 15th, 2022.



Qaslyory Riga
Signature of Petitioner

Qaslyory Riga/

N/A

Signature of Attorney or other authorized person, if any

LIST OF THE ATTACHMENTS OF THE U.S.C. 2241 – QUELYORY A. RIGAL

- 1.) Attachment A-1: Copy of the envelope and BP-9 lawfully stamped and deposited in Ms. Rigal residence's mailbox on May 31, 2021, sent to F.C.I Tallahassee, Florida, to Ms. Strong the F.C.I Warden. This was the second request.**
- 2.) Attachment A-2: Copy of the e-mail and the BP-9 (REQUEST FOR ADMINISTRATIVE REMEDY), date and lawfully sent on May 31, 2021, at 6:08 PM to Ms. Vanessa Romero, the senior case Manager of Riverside House in charge of the home confinement program case.**
- 3.) Attachment A-3: Copy of the REGIONAL ADMINISTRATIVE REMEDY APPEAL, lawfully sent on June 22, 2021, through the USPS Certified Mail to Southeast Regional Office at Atlanta, GA. This request was never responded to; after the lawfully time frame, Ms. Rigal moved to the next step.**
- 4.) Attachment A-4: Copy of the CENTRAL OFFICE ADMINISTRATIVE REMEDY APPEAL lawfully sent on August 2nd, 2021, through the USPS Certified Mail to "Central Office Level Office" at Grand Prairie, Texas, which the response was stating that "I didn't send it to F.C.I Tallahassee and Miami RRM."**
- 5.) Attachment A-5: Copy of the Rejection notice - ADMINISTRATIVE REMEDY.**
- 6.) Attachment A-6: Copy of the letter sent on 09/10/2021 to BOP Designation & Sentence Computation Center rebutting through a Lawful affidavit and requesting a reconsideration based on the lack of merits because all the administrative steps had been lawfully followed in its perfection.**
- 7.) Attachment A-7: Copy of the envelope and the Computation Sheet sent to me by BOP Designation & Sentence Computation Center and received on or about September 7th, 2021.**

LIST OF THE ATTACHMENTS OF THE U.S.C. 2241 – QUELYORY A. RIGAL

8.) Attachment A-8: Copy of the official document issued by the BOP called "Information regarding re-calculated sentences", where you can see the term "Two Third" or GTC (Good Time Credit) explaining the good time credit for qualified people. Moreover, the last computation sheet sent by BOP DSCC (Designation & Sentence Computation Center) to me shows the 2/3 Two Third Release date on 01/01/2021. Many inmates that was in FCI Tallahassee already were released and re-calculated with this Lawful Act signed and approved by Honorable ex-President Donald J. Trump and must be respected it, otherwise is a violation of the Statutes and dishonor.

9.) Attachment A-9: Copy of the two relevant to this case copies of the First Step Act of 2018 stating about the "Two Third" or GTC (Good Time Credit) for qualified people.

10.) Attachment A-10: Copy of the Affidavit of Walker F. Todd, which is an active specialist, expertise as an attorney, economist, research writer and teacher explaining the matter of the fact of the bank transactions which are all relevant and material to this case. Petitioner was expecting to have effective assistance of counsel as the United States Constitution guarantee, or at least a fair defense by an expert as Mr. Walker F. Todd.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 22-60180-CV-DIMITROULEAS
(12-60088-CR-DIMITROULEAS)

QUELYORY A. RIGAL,

Petitioner,

v.

UNITED STATES OF AMERICA, *et al.*,

Respondent.

Appendix E

FINAL JUDGEMENT AND ORDER OF DISMISSAL

This cause is before the Court on Rigal's *pro se* January 13, 2022 Petition for Writ of Habeas Corpus [DE 1], filed pursuant to 28 U.S.C. § 2241. Rigal is now 45 or 46 years of age. [CR-DE-564, p. 6]. Petitioner seeks immediate release as well as "dismissal of the judgment, and/or exoneration of the charges and restitution" contending that she is innocent. For reasons explained below, the Petition is denied.

I. Background

On October 16, 2013, Petitioner was convicted before Judge Zloch in case number 12-60088-CR-WPD of conspiracy to commit mail fraud and wire fraud, three counts of wire fraud and one count of mail fraud. *See* [CR-DE-413]. The conviction and sentence were affirmed on appeal. *Id.* at DE 496. The Supreme Court denied certiorari review on October 3, 2016. [CR-DE=514]. After a motion to vacate was granted, Petitioner was resentenced, and an amended judgment was entered on August 13, 2019. [CR-DE-559]; [CR-DE-572]. The amended judgment was affirmed on April 15, 2020. [CR-DE- 611]. *U.S. v. Rigal*, 801 Fed Appx 733 (11th Cir. 2020).

Mandate issued on May 14, 2020. Rigal's conviction became final on July 15, 2020 when she failed to file a petition for writ of certiorari in the U.S. Supreme Court. *Bond v. Moore*, 309 F. 3d 770 (11th Cir. 2002). Any petition under 28 U.S. C. § 2255 would now be time-barred.

While the appeal was pending, on November 26, 2019, Petitioner filed a motion for reduction in term of imprisonment under 18 U.S.C. § 3582(c)(1)(A)(i) [CR-DE-582]; it was denied on December 10, 2019 [CR-DE-586]. On August 17, 2020, she renewed the motion after the appeal concluded. [CR-DE- 620]. The motion was dismissed on August 21, 2020. [CR-DE- 621]. That motion did not toll the one year statute of limitations under AEDPA. *U.S. v. Schwartz*, 274 F. 3d 1220, 1224 (9th Cir. 2001). Even if it did, it would have only been for four (4) days.

Petitioner has now returned to this Court seeking relief from her sentence. She enumerates the following three claims for relief:

1. The computation of her sentence violates the First Step Act of 2018 because she has not been awarded "Good Time Credit."
2. The amount of the restitution or loss amount does not support nor justify the sentence and judgment.
3. The restitution amount is wrong because even after the re-sentencing the amount was not reduced.
4. She received ineffective assistance of counsel.

In her request for relief Petitioner claims she is innocent and is requesting immediate release. She also states that she will continue to pursue relief until God tells her otherwise. However, the federal statutes and rules might be an additional obstacle to her future pursuits.

I. Discussion

A federal prisoner challenging the manner, location, or conditions of confinement must do so through a petition for writ of habeas corpus under 28 U.S.C. § 2241. *See Antonelli v. Warden, U.S.P. Atlanta*, 542 F.3d 1348, 1351 (11th Cir. 2008) (finding that challenges to execution of

sentence are properly brought under § 2241). Under 28 U.S.C. § 2241, “[a] prisoner sentenced by a federal court... may file a petition for a writ of habeas corpus to challenge the execution of Petitioner’s sentence, such as the deprivation of good-time credits or parole determinations.” *McCarthan v. Dir. of Goodwill Indus.-Suncoast, Inc.*, 851 F. 3d 1076, 1092–93 (11th Cir.), *cert. denied sub nom. McCarthan v. Collins*, 138 S. Ct. 502 (2017). Accordingly, the claim raised by Petitioner invoking the First Step Act of 2018 is cognizable under § 2241. However, the remaining claims are not cognizable under § 2241 as they challenge the underlying judgment rather than the execution of Petitioner’s sentence. *See Antonelli*, 542 F.3d at 1351.

A prisoner seeking relief under § 2241 is required to exhaust administrative remedies before filing suit. *Santiago-Lugo v. Warden*, 785 F.3d 467, 471, 474–75 n.5. (11th Cir. 2015). In *Santiago-Lugo*, the Eleventh Circuit held that the administrative-exhaustion requirement was judge-made, rather than jurisdictional. *Santiago-Lugo*; 785 F. 3d at 474–75. This holding was consistent with the axiom that “where Congress does not say there is a jurisdictional bar, there is none. *Id.* at 473 (citing *Reed Elsevier, Inc. v. Muchnick*, 559 U.S. 154, 161-62 (2010)). Notwithstanding, even though the exhaustion requirement was no longer jurisdictional, the Eleventh Circuit emphasized that exhaustion is still a requirement. *Id.* at 475. To properly exhaust administrative remedies, petitioners must comply with an agency’s deadlines and procedural rules. *See Woodford v. Ngo*, 548 U.S. 81, 90–91 (2006) (explaining the exhaustion requirement in the context of the Prison Litigation Reform Act).

For federal prisoners to properly exhaust administrative remedies, they must follow the procedure set forth in 28 C.F.R. §§ 542.10-542.19. *See also* U.S. Department of Justice, Program Statement, 1330.13. Administrative remedies are not exhausted until the claim has been presented at all levels and has been denied at all levels. 28 C.F.R. § 542.10. The absence of a response by

the agency, within the time allotted by regulation, may be considered a denial at that level. 28 C.F.R. § 542.17.

Petitioner has provided as exhibits grievances and correspondence regarding her request for "Good Time Credit." (DE 1-1) It appears that Petitioner submitted a request for Good Time Credit on May 31, 2021. *Id.* at 4. This request was submitted to her case manager who forwarded it to the facility director of the Residential Reentry Office. *Id.* at 5-6. After receiving no response, Petitioner submitted an appeal to the regional administrator. *Id.* at 8. Petitioner next submitted a central office administrative remedy appeal. *Id.* at 9. On August 26, 2021, the administrative remedy was rejected because it had been submitted to the wrong level and did not include copies of the request and response from the warden. *Id.* at 11. Petitioner apparently then submitted a rebuttal contesting the reasons for rejection. *Id.* at 12-13. Petitioner has not provided any further evidence to show that she has exhausted her administrative remedies.

Petitioner has also submitted a document entitled "Sentence Monitoring Computation Data" which explains the computation of her sentence as of September 16, 2021. *Id.* at 16-18. This document indicates that Petitioner has received 54 days of good conduct time for each year of her sentence. *Id.* at 17. Her current release date is January 2, 2024 but her projected release date is May 31, 2023 based on her good conduct time credits. *Id.* Giving her an additional year of credit would not result in her being released at this time.

Petitioner has not established that she has exhausted her administrative remedies. Although she may have attempted to pursue relief through the Bureau of Prisons, the exhibits attached to her Petition establish that those attempts have been rejected as improper. As discussed above, in order to exhaust administrative remedies a petitioner must follow the procedures set forth by the Bureau

of Prisons. It is not clear from the exhibits that Petitioner has exhausted her administrative remedies as required under the regulations.

Even if Petition had exhausted her administrative remedies, she has not established she is entitled to relief. The exhibits indicate that Petitioner has received all good time credits against her sentence. The calculation of good time credits was made after the implementation of the First Step Act. Petitioner has invoked the First Step Act but does not explain how she is entitled to any additional credits under the Act. Petitioner seems to argue two alternative theories for recalculation.

First, she includes a memorandum referencing "2/3 dates" and has argued that her sentence should have ended on January 1, 2021. This reference and argument causes the Court to conclude that Petitioner is seeking relief under 34 U.S.C. § 60541(g)(5)(A) which concerns early release for "eligible elderly offender[s]." That section specifically provides that offenders 60 years of age or older may be considered for home release after serving 2/3 of the term of their imprisonment. 34 U.S.C § 60541(g)(5)(A)(i)-(ii). In the instant case, Petitioner has not established that she meets the age requirement or is otherwise eligible for this relief. It is also noted that the relief which would be available, release to home detention, has already been granted to Petitioner as she acknowledges she is presently in home detention.

Second, Petitioner has submitted as an exhibit an excerpt from the Department of Justice publication entitled "The First Step Act of 2018: Risk and Needs Assessment System." In the excerpt there is a discussion of how the Department will implement the Earned Time Credit System, which refers to the First Step Act's creation of an avenue for additional time credits for completion of approved evidence-based recidivism reduction programs or productive activities. Even assuming that Petitioner would be entitled to additional credits under this system, her claim

is premature. The First Step Act provided that “[n]ot later than 210 days after the date of enactment of this subchapter, the Attorney General, in consultation with the Independent Review Committee authorized by the First Step Act of 2018, shall develop and release publicly on the Department of Justice website a risk and needs assessment system.” See 18 U.S.C.A. § 3632. The Bureau of Prisons then had 180 days to complete the needs assessment for each inmate. See *Bowling v. Hudgins*, Civil No. 5:19CV285, 2020 WL 1918248, at *4 (N.D. W. Va. Mar. 16, 2020), *report and recommendation adopted*, 2020 WL 1917490 (N.D. Va. Apr. 20, 2020) (finding petition to be premature because the BOP had “180 days, or until January 15, 2020 to implement the system, complete inmate assessments, and then begin to assign prisoners to appropriate evidence-based recidivism reduction programs”). The First Step Act further provided that the Bureau of Prisons would have two years after completion of the risks and needs assessment for each prisoner to “phase in” the program. See 18 U.S.C. § 3261(h)(2)(A).¹ Thus, to the extent that Petitioner is seeking additional credits under the Earned Time Credit System her claim is premature as she has not yet sought an administrative remedy under the new system. Petitioner has not even alleged which programs, if any, she participated in that would warrant credit under this new system.

Moreover, any error in loss calculations or restitution could have been raised on direct appeal and should not now be heard on a collateral attack. *Mills v. U.S.*, 36 F. 3d 1052, 1055 (11th Cir 1995). Additionally, her conclusory allegations of ineffective assistance of counsel are insufficient upon which to base any relief. *Lynn v. U.S.*, 365 F. 3d 1225, 1239 (11th Cir. 2004).


¹ The Bureau of Prisons published its new rule on the earning and application of time credits on January 19, 2022. See “FSA Time Credits (Final Rule).” 87 Fed. Reg. 2705-01. Those rules limit the amount of credit to being transferred to supervised release to no more than 12 months less than the original release date. Here, that projected release date is over one year away. Additionally, the Bureau of Prisons was not required to apply earned time credits before January 15, 2022. *Noe v. True*, 2022 WL 124752*4 (D. Colo 2022). Rigal filed her petition two days before the deadline, without having exhausted administrative remedies.

Finally, any error in restitution calculations is not cognizable in a § 2241 action. *Arnaiz v. Warden*, 594 F. 3d 1326 (11th Cir. 2010).

Based upon the foregoing, it is **ORDERED AND ADJUDGED** that:

1. The above-styled action is hereby **DENIED without prejudice**.
2. The Clerk is directed to **CLOSE** this case and **DENY AS MOOT** any pending motions.
3. The Clerk is **DIRECTED** to mail a copy of this Order to Plaintiff at the address below.
4. The Court denies a certificate of appealability.

DONE AND ORDERED in Chambers at Ft. Lauderdale, Broward County, Florida, this
28th day of January, 2022.


WILLIAM P. DIMITROULEAS
United States District Judge

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