

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 10-21957-Civil-LENARD

**GERARDO HERNANDEZ,
Plaintiff,**

v.

**UNITED STATES,
Defendant**

**UNITED STATES' UNOPPOSED MOTION FOR
LEAVE TO FILE CONSOLIDATED REPLY/RESPONSE**

The United States respectfully moves the court for leave to file a consolidated pleading, on or before December 10, in reply to Movant's response, *see* Docket Entry ("DE") 62, 62-1, to the government's motion, *see* DE 56, to strike certain pleadings; and in response to additional motions filed by Movant, *see* DE 63, 64, 65, 66, 66-1, on partially related matters. Because the government's consolidated pleading would address numerous motions and filings, the government respectfully asks for leave to file a pleading of up to 40 pages, incorporating its memorandum of law on the issues.

In support, the United States states as follows:

On September 20, 2012, the United States moved, DE 56, to strike Movant's filings DE 53 and attachments 53-1 – 53-31. Movant sought leave to file his response to this motion by November 19, 2012, DE 59, and the United States sought leave to file its reply by December 3, DE 60, which motions were granted, DE 61. On November 16, 2012, Movant filed his response, DE 62, with attached affidavit 62-1. At the same time, Movant also filed a motion for leave to

refile DE 53 and its attachments to expand the 2255 record, *see* DE 63; a memorandum in further support of his motion (DE 38) for oral argument and for discovery, *see* DE 64; and a motion for leave to amend Ground Five of his original 2255 motion, *see* DE 65. Movant's affidavit DE 62-1 also was captioned as being in support of these motions, as well as in support of DE 62. *See* DE 62-1. On November 26, 2012, Movant filed a Corrected Motion for Leave to Amend his original 2255 motion, *see* DE 66, with attached memorandum of law, *see* DE 66-1.

The United States respectfully submits that addressing these multiple pleadings, which contain some overlapping and related issues, in one consolidated reply/response will be more efficient and comprehensible for both it and for the court in considering these matters. In light of the volume of the multiple pleadings – which total more than 55 pages even not counting DE 65 as having been substituted with DE 66 – the United States respectfully requests that its consolidated reply/response be allowed up to 40 pages in length. We also respectfully seek a filing date of on or after December 10, which is 14 days following the latest of Movant's filings, DE 66 and DE 66-1.

Undersigned counsel has consulted with counsel for Movant, who does not oppose this motion.

WHEREFORE the United States respectfully moves the court for leave to file a consolidated pleading, on or before December 10, 2012, of up to 40 pages, replying to DE 62 and 62-1, and responding to DE 63, 64, 65, 66 and 66-1.

Respectfully submitted,

WIFREDO A. FERRER
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 29, 2012, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF, for uploading and service by electronic notice to counsel and parties authorized to receive electronically Notices of Electronic Filing.

/s/ Caroline Heck Miller
Caroline Heck Miller
Assistant U.S. Attorney