

**DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

UNITED STATES OF AMERICA,	)	
	)	
v.	)	Criminal Action No. 2004-0105
	)	
REINALDO BERRIOS, TROY MOORE,	)	
ANGEL RODRIGUEZ, and FELIX CRUZ,	)	
	)	
Petitioners.	)	

Appearances:

Harry C. Wallace, Jr., Esq.
Miami, FL
For the United States

Kye Walker, Esq.
St. Croix, U.S.V.I.
For Petitioner Reinaldo Berrios

Troy Moore
Waymart, PA
Pro Se

Ramon M. Gonzalez, Esq.
San Juan, P.R.
For Petitioner Angel Rodriguez

Javier A. Cuyar Olivo, Esq.
San Juan, P.R.
For Petitioner Felix Cruz

ORDER

UPON CONSIDERATION of the Report and Recommendation (“R&R”) issued by Magistrate Judge Emile A. Henderson III (Dkt. No. 1133); the following Motions:

(1) Petitioner Felix Cruz’s (“Cruz”) “Motion to Vacate and Set Aside the Convictions and Motion to Dismiss Counts Two, Five, Seven, Eight, Ten, and Eleven Pursuant to FRCP 12(b)(3)(B) and Pursuant to *Rosemond v. United States*” (“Cruz’s First Motion to Dismiss”) (Dkt. No. 1085);

(2) Petitioner Reinaldo Berrios’ (“Berrios”) “Notice of Joinder in Motion to Vacate

and Set Aside the Convictions and Motion to Dismiss Counts Two, Five, Seven, Eight, Ten, and Eleven Pursuant to Federal Rule of Criminal Procedure 12(b)(3)(B) and Pursuant to *Rosemond v. United States*” (“Berrios’ Motion to Dismiss”) (Dkt. No. 1097);

(3) Petitioner Angel Rodriguez’s (“Rodriguez”) and Cruz’s “Joint Revised Motion to Dismiss Counts Two (2), Five (5), Seven (7), Eight (8), Ten (10), and Eleven (11) Pursuant to FRCP Rule 12(b)(3)(B) and in Light of *Rosemond v. United States*” (“Joint Motion to Dismiss”) (Dkt. No. 1106);

(4) Petitioner Troy Moore’s (“Moore”) *pro se* “Motion for Joinder of Parties Pursuant to Fed. R. Civ. P. 19 to Add Troy Moore to Felix Cruz’s 28 U.S.C. § 2255 Motion to Vacate, Set Aside, or Correct a Sentence by a Person in Federal Custody” (“Moore’s Motion for Joinder”) (Dkt. No. 1107);

(5) Petitioner Cruz’s *pro se* “Motion for Reconsideration” (Dkt. No. 1007) of the Court’s July 18, 2023 Order and accompanying Memorandum Opinion (Dkt. Nos. 991 and 992);

(6) Petitioner Rodriguez’s *pro se* “Motion to Dismiss Counts Two, Five, Seven, Eight, Ten, and Eleven Pursuant to FRCP Rule 12(b)(3)(B), and in Light of *Rosemond vs. United States*” (“Rodriguez’s *Pro Se* Motion to Dismiss”) (Dkt. No. 1068); and

(7) Petitioner Cruz and Rodriguez’s “Joint Motion to Dismiss Count Five (5) for Lack of Jurisdiction” (“Second Joint Motion to Dismiss”) (Dkt. No. 1138);

(8) Petitioner Rodriguez’s “Supplemental Motion to Dismiss Count Five” (Dkt. No. 1172);

(9) Petitioner Cruz’s “Motion for Joinder Re: To Join Supplement Motion to Joint Motion to Dismiss Filed by Codefendant Angel Rodriguez [3] At D.E. 1172” (Dkt. No. 1173);

the entire record herein; and for the reasons set forth in the accompanying Memorandum Opinion filed contemporaneously herewith, it is hereby

ORDERED that the conclusions reached in the R&R (Dkt. No. 1133) is **ADOPTED** as supplemented in the Court’s accompanying Memorandum Opinion; and it is further

ORDERED that Petitioner Cruz’s First Motion to Dismiss (Dkt. No. 1085) is **DENIED AS MOOT** for the reasons set forth in the R&R; and it is further

ORDERED that Petitioner Berrios’ Motion to Dismiss (Dkt. No. 1097) is **DENIED AS**

MOOT for the reasons set forth in the R&R; and it is further

ORDERED that Petitioners Cruz and Rodriguez’s Joint Motion to Dismiss (Dkt. No. 1106) is **DENIED** for the reasons set forth in the R&R as supplemented in the Court’s accompanying Memorandum Opinion; and it is further

ORDERED that Petitioner Moore’s Motion for Joinder (Dkt. No. 1107) is **GRANTED IN PART AND DENIED IN PART** for the reasons set forth in the R&R as supplemented in the Court’s accompanying Memorandum Opinion; and it is further

ORDERED that Petitioner Moore’s Motion (Dkt. No. 1107) is **GRANTED** to the extent that counsel shall be appointed for Moore—if he is financially eligible—for purposes of determining whether a motion to reduce his sentence may be filed, and the Motion is otherwise **DENIED**; and it is further

ORDERED that Petitioner Cruz’s “Motion for Reconsideration” (Dkt. No. 1007) is **GRANTED IN PART AND DENIED IN PART**; and it is further

ORDERED that Petitioner Cruz’s Motion for Reconsideration (Dkt. No. 1007) is **GRANTED** only for purposes of striking the incorrect statement that *Berrios* remains good law in the Third Circuit and any conclusion drawn solely from that statement, and the Motion is otherwise **DENIED**; and it is further

ORDERED that Petitioner Rodriguez’s *pro se* Motion to Dismiss (Dkt. No. 1068) is **STRICKEN** from the record; and it is further

ORDERED that Petitioners Cruz and Rodriguez’s Second Joint Motion to Dismiss (Dkt. No. 1138) is **DENIED**; and it is further

ORDERED that Petitioner Rodriguez’s “Supplemental Motion to Dismiss Count Five” (Dkt. No. 1172) is **DENIED**; and it is further

ORDERED that Petitioner Cruz’s “Motion for Joinder Re: To Join Supplement Motion to Joint Motion to Dismiss Filed by Codefendant Angel Rodriguez [3] At D.E. 1172” is **GRANTED** (Dkt. No. 1173).

SO ORDERED.

Date: May 29, 2025

_____/s/_____
WILMA A. LEWIS
Senior District Judge