

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION

UNITED STATES OF AMERICA

vs.

Case Nos.: 5:12cr5/MW/CJK
5:17cv248/MW/CJK

TROY ANTHONY COLEMAN

ORDER

Defendant Troy Anthony Coleman filed, through counsel, an amended Motion to Vacate, Set Aside or Correct Sentence Under 28 U.S.C. § 2255 contending that he was deprived of his constitutional right to counsel on direct appeal. ECF No. 913. The Government filed a response, conceding that based on the appellate record and the representations of Coleman's former counsel, Elizabeth Addison, Coleman was prejudiced by an "apparent absence of counsel on appeal" and is entitled to relief. ECF No. 927 at 12.

The Eleventh Circuit has stated that the proper procedure when an out of time appeal is warranted is: (1) the criminal judgment from which the out-of-time appeal is to be permitted should be vacated; (2) the same sentence should then be reimposed; (3) upon reimposition of that sentence, the defendant should be advised

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of all the rights associated with an appeal from any criminal sentence; and (4) the defendant should also be advised that the time for filing a notice of appeal from that re-imposed sentence is fourteen days, which is dictated by Federal Rule of Appellate Procedure 4(b)(1)(A)(i). *United States v. Parrish*, 427 F.3d 1345, 1347 (11th Cir. 2005) (quoting *United States v. Phillips*, 225 F.3d 1198, 1201 (11th Cir. 2000)); *United States v. Palacios*, 516 F. App'x 734 (11th Cir. 2013).

Accordingly, it is **ORDERED**:

1. Defendant Coleman's Motion to Vacate, Set Aside or Correct Sentence under 28 U.S.C. § 2255 (ECF No. 913) is **GRANTED**.
2. The renewed criminal judgment entered on April 16, 2015, ECF No. 746, is **VACATED** and the same sentence is re-imposed as modified in the order reducing sentence, ECF No. 812.
3. The Federal Public Defender is appointed for the purpose of appeal (or, at minimum, to consult with Coleman with respect to his desire to appeal).

DONE AND ORDERED this 2nd day of July, 2018.

____s/Mark E. Walker_____
MARK WALKER
UNITED STATES DISTRICT JUDGE