

**UNITED STATES DISTRICT COURT  
District of Maine**

<b>JAMES CRUZ,</b>	)	
	)	
<b>Movant</b>	)	
	)	
<b>v.</b>	)	<b>2:96-cr-00076-GZS-1</b>
	)	<b>2:00-cv-00119-GZS</b>
<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Respondent</b>	)	
	)	

**ORDER AFFIRMING THE  
RECOMMENDED DECISION OF THE MAGISTRATE JUDGE**

The United States Magistrate Judge filed with the Court on July 6, 2012, her Recommended Decision (ECF No. 175). Movant filed his Objection to the Recommended Decision (ECF No. 176) on July 30, 2012.

I have reviewed and considered the Magistrate Judge's Recommended Decision, together with the entire record; I have made a de novo determination of all matters adjudicated by the Magistrate Judge's Recommended Decision; and I concur with the recommendations of the United States Magistrate Judge for the reasons set forth in her Recommended Decision, and determine that no further proceeding is necessary.

1. It is therefore **ORDERED** that the Recommended Decision of the Magistrate Judge is hereby **AFFIRMED**.

2. It is **ORDERED** that Movant's 28 U.S.C. § 2255 motion to reopen (ECF No. 174) is **DISMISSED WITHOUT PREJUDICE**.
3. It is **ORDERED** that no certificate of appealability shall issue in the event Movant files a Notice of Appeal.

/s/George Z. Singal\_\_\_\_\_

U.S. District Judge

Dated this 20th day of August, 2012.

**Defendant (1)**

**JAMES CRUZ**

*TERMINATED: 10/06/1997*

represented by **JAMES CRUZ**

03584-036

FCI CUMBERLAND

PO BOX 1000

CUMBERLAND, MD 21501

PRO SE

**PETER E. RODWAY**

RODWAY & HORODYSKI

30 CITY CENTER

PORTLAND, ME 04104

773-8449

Email: rodlaw@maine.rr.com

*TERMINATED: 10/06/1997*

*LEAD ATTORNEY*

*ATTORNEY TO BE NOTICED*

*Designation: CJA Appointment*

**Pending Counts**

21:841(a)(1) and 846 NARCOTICS -  
SELL, DISTRIBUTE, OR  
DISPENSE  
(1s)

**Disposition**

Defendant shall be imprisoned for total term of 360 months on each of counts 1,8,9,10 and 12; Defendant shall be imprisoned for a term of 120 months on Count 11 to be served concurrently to term imposed on Counts 1,8,9,10 and 12; On Count 7, defendant shall be imprisoned for a term of 6 months to be served consecutively to the sentences

18:924(c)(1) Using and carrying a  
firearm during and in relation to a  
drug trafficking crime  
(7s)

18:922(g)(1) Felon in possession of a  
firearm  
(8s-10s)

imposed on counts 1,8,9,10,11 and 12; Defendant sentenced to a term of 8 years of supervised release on Count 1, and 6 years on each of counts 8,9,10, and 12 and 3 years on each of counts 7 and 11, to be served concurrently with each other; Special Assessment of \$700.00.

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26:5841, 5861(d) and 5871  
possession of an unregistered sawed-  
off shotgun  
(11s)

18:922(g)(3) possession of a firearm  
in and affecting commerce by an  
unlawful user of controlled  
substances  
(12s)

**Highest Offense Level (Opening)**

Felony

**Terminated Counts**

21:841A=ND.F NARCOTICS -  
SELL, DISTRIBUTE, OR  
DISPENSE

Defendant shall be imprisoned for total term of 360 months on each of counts 1,8,9,10 and 12; Defendant shall be imprisoned for a term of 120 months on Count 11 to be served concurrently to term imposed on Counts 1,8,9,10 and 12; On Count 7, defendant shall be imprisoned for a term of 6 months to be served consecutively to the sentences imposed on counts 1,8,9,10,11 and 12; Defendant sentenced to a term of 8 years of supervised release on Count 1, and 6 years on each of counts 8,9,10, and 12 and 3 years on each of counts 7 and 11, to be served concurrently with each other; Special Assessment of \$700.00.

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**Disposition**

(1)

18:922(g)(1) FELON IN  
POSSESSION OF A FIREARM OR  
AMMUNITION.

(3-5)

26:5841, 5861(d), and 5871  
POSSESSION OF AN  
UNREGISTERED SAWED-OFF  
SHOTGUN

(6)

**Highest Offense Level**  
**(Terminated)**

Felony

**Complaints**

None

**Disposition**

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**Plaintiff**

USA

represented by **GEORGE T. DILWORTH**  
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*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

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