

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
MIDDLE DIVISION

MARVIN DARBY,]	
]	
Petitioner]	
]	
vs.]	Civil Action No. 2:09-CV-0052
]	
UNITED STATES OF AMERICA,]	
]	
Respondent.]	

Order Accepting Recommendation

This court has reviewed the Recommendation of the Honorable Susan Russ Walker, United States Magistrate Judge [Doc. 25], entered February 18, 2011, pertaining to Petitioner’s motion to set aside, vacate, or correct his sentence pursuant to 28 U.S.C. § 2255 [Docs. 1, 4].

After careful consideration of the record in this case and the Magistrate Judge’s findings and recommendations, this Court hereby ADOPTS the findings of the Magistrate Judge. The Court further ACCEPTS the recommendations of the Magistrate Judge, and therefore ORDERS Petitioner’s motion to set aside, vacate, or correct his sentence pursuant to 28 U.S.C. § 2255 is GRANTED in part and DENIED in part. Petitioner will be

re-sentenced without the armed career criminal enhancement and with the benefit of any applicable reduction. Because Petitioner's remaining claims are time-barred pursuant to the one-year limitation period applicable to § 2255 motions, any further relief requested by Petitioner is denied.

A separate order will be entered addressing Petitioner's re-sentencing date.

Done this 31st day of March 2011.



L. SCOTT COOGLER
UNITED STATES DISTRICT JUDGE
153671