

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

CHARLES DANIEL CRAIG,	)	
	)	
Petitioner,	)	
	)	
v.	)	CASE NO. 2:10-CV-558-WKW
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

**ORDER**

The previous order adopting the Recommendation of the Magistrate Judge to deny Petitioner’s § 2255 motion and final judgment have been vacated, due to Petitioner’s timely mailed objections being inexplicably returned to him. Petitioner’s objections will now be considered. The court reviews *de novo* the portion of the Recommendation to which the objection applies. 28 U.S.C. § 636(b)(1).

Petitioner’s objections to the Recommendation are the same arguments presented before the Magistrate Judge, namely, that his counsel was ineffective for failing to challenge the district court’s application of a two-level firearm enhancement under the United States Sentencing Guidelines, for failing to make another motion for judgment of acquittal after the jury’s verdict and on direct appeal, and for misadvising him of his maximum sentencing exposure if convicted. Petitioner’s objections are without merit. First, Petitioner’s counsel objected to the two-level firearm

enhancement at sentencing and on direct appeal. Second, Petitioner's counsel moved for a judgment of acquittal at trial, and the district court reserved ruling on that motion until after the jury's verdict. Furthermore, there was ample evidence presented at trial to sustain the Petitioner's convictions. Third, Petitioner fails to demonstrate any prejudice resulting from his counsel's allegedly deficient performance in misadvising him about his maximum sentence because Petitioner does not allege there was a more favorable plea offer in existence, or that he would have pled guilty had he known that he could receive a sentence of more than ten years.

Accordingly, it is ORDERED that:

1. Plaintiff's objection (Attach. C to Doc. # 14) is OVERRULED;
2. The Recommendation of the Magistrate Judge (Doc. # 11) is ADOPTED;
3. Petitioner's § 2255 motion is DENIED because the claims therein entitle him to no relief; and
4. This case is DISMISSED with prejudice.

An appropriate final judgment will be entered.

DONE this 11th day of September, 2012.

/s/ W. Keith Watkins  
CHIEF UNITED STATES DISTRICT JUDGE