

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

WILLIE GENE DAVIS,)	
)	
Petitioner,)	
)	
v.)	
)	CASE NO. 2:12-CV-38-WKW
UNITED STATES OF)	[WO]
AMERICA,)	
)	
Petitioner.)	

ORDER

On August 13, 2014, the Magistrate Judge filed a Recommendation in this case. (Doc. # 21.) On August 29, 2014, Petitioner Willie Gene Davis filed Objections. (Doc. # 22.) The court has conducted an independent and *de novo* review of those portions of the Recommendation to which objection is made. *See* 28 U.S.C. § 636(b).

In his objections, Mr. Davis reargues issues that he previously raised and that the Recommendation adequately addressed. Those objections are due to be overruled for the reasons provided in the Recommendation. For example, Mr. Davis argues that the Recommendation mischaracterizes his double-jeopardy argument, namely, that “it is Double Jeopardy to receive 2 separate enhanced sentences for the same prior convictions.” (Doc. # 22, at 3.) Mr. Davis complains

that the “same prior felony convictions were used for enhancement purposes in both[] the State and Federal sentencing proceedings, causing multiple punishments for the same offenses.” (Doc. # 22, at 3.) Citing Eleventh Circuit authority, the Recommendation explains why “[e]nhancement of Davis’s federal sentence using convictions previously used to enhance his state sentence did not violate the Double Jeopardy Clause” and that his counsel did not provide ineffective assistance of counsel “by failing to argue a meritless issue.” (Doc. # 21, at 22); *see also Sudds v. Maggio*, 696 F.2d 415 (5th Cir. 1983) (rejecting the argument that under the Double Jeopardy Clause, “the same prior conviction cannot be used to enhance two subsequent convictions” and concluding that there is “no logical reason why it should be impermissible to use the same prior conviction to enhance sentences on more than one subsequent conviction”).

Accordingly, it is ORDERED that Mr. Davis’s objections (Doc. # 22) are OVERRULED, that the Recommendation of the Magistrate Judge (Doc. # 21) is ADOPTED, and that the 28 U.S.C. § 2255 motion is DENIED with prejudice.

A separate final judgment will be entered.

DONE this 9th day of September, 2014.

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