

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
MARCUS RASHAWN SMITH DIVISION

MARCUS RASHAWN SMITH,)
)
 Petitioner,)
)
 v.) CASE NO. 2:15cv457-WKW
) (WO)
UNITED STATES OF AMERICA,)
)
 Respondent.)

ORDER

On about June 20, 2015, petitioner Marcus Rashawn Smith (“Smith”) filed a *pro se* motion seeking to proceed under Federal Rule of Civil Procedure 60(b)(4) in asserting claims challenging his convictions for bank robbery and federal firearms offenses. (Doc. # 1.) In an Order entered on July 2, 2015 (Doc. # 3), the court informed Smith that his claims were properly presented in a motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255. Additionally, in accordance with *Castro v. United States*, 540 U.S. 375 (2003), the court notified Smith of its intention to treat his filing as such a motion. The court further directed Smith to advise if he wished to proceed on his motion under 28 U.S.C. § 2255, to amend his motion to assert additional claims under 28 U.S. § 2255, or to withdraw his motion. (Doc. # 3 at pp. 2-3.)

Smith filed a response to the court's Order in which he stated that he desired to withdraw his motion. (Doc. # 5.) The court construes Smith's response as a Notice of Voluntary Dismissal of Action under Federal Rule of Civil Procedure 41(a)(1)(A)(i). Upon consideration of the Notice, this action has been dismissed without prejudice by operation of Rule 41.

The Clerk of the Court is DIRECTED to close this case.

DONE this 26th day of August, 2015.

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