

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, EASTERN DIVISION

STANLEY JAWAN HINTON,)	
)	
Petitioner,)	
)	CIVIL ACTION NO.
v.)	3:19cv286-MHT
)	(WO)
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

OPINION

Pursuant to 28 U.S.C. § 2255, petitioner, a federal inmate, filed this lawsuit seeking habeas relief. This lawsuit is now before the court on the recommendation of the United States Magistrate Judge that the petition be denied. Also before the court are petitioner's objections to the recommendation.

After an independent and de novo review of the record, the court concludes that petitioner's objections should be overruled and the magistrate judge's recommendation adopted, with the exception of a portion of the recommendation that is based on a misreading of the record. That part of the recommendation addresses petitioner's claim that trial

counsel was ineffective for failing to preserve his sufficiency-of-the-evidence claim for appeal, resulting in the application of a "plain error" standard of review on appeal rather than a more favorable de novo review. In addressing that claim, the recommendation concludes that "it was Hinton's written brief on appeal that failed to preserve the sufficiency of evidence issue, not trial counsel." Report and Recommendation (Doc. 11) at 13 (citing *United States v. Hinton*, 730 F. App'x 719, 721 (11th Cir. 2018)). While the record is somewhat confusing, after review of the appellate court's opinion and the petitioner's brief in the appeal, it is clear that the reason for the appeals court's application of plain-error review was that trial counsel failed to preserve the arguments raised by appellate counsel, not that appellate counsel failed to preserve trial counsel's arguments. Nevertheless, as petitioner has not established that the outcome of his appeal would have been any different had trial

counsel preserved all issues raised in the appeal, his claim will still be denied.

An appropriate judgment will be entered.

DONE, this the 29th day of July, 2022.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE