

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

JOHN C. ISAACS,)

Petitioner,)

v.)

**UNITED STATES OF
AMERICA,**)

Respondent.)

**Case No. 4:10-cv-8042-VEH-JEO
4:06-cr-0363-VEH-JEO**

MEMORANDUM OPINION

This case is before the court on the magistrate judge's Report and Recommendation. (Doc. 22). While objections to the Report and Recommendation were due by June 23, 2014, none have been filed.

The court has considered the entire file in this action together with the Magistrate Judge's Report and Recommendation and has reached an independent conclusion that the Report and Recommendation is due to be adopted and approved. The court hereby **ADOPTS** and **APPROVES** the findings and recommendation of the magistrate judge as the findings and conclusions of the court. In accordance with the recommendation, Petitioner's § 2255 motion is due to be dismissed.

DENIAL OF CERTIFICATE OF APPEALABILITY

Pursuant to Rule 11(a) of the Rules Governing 2255 Proceedings, the court finds that a certificate of appealability in this case is not well-founded, and any application for one is due to be denied. 28 U.S.C. foll. 2255, Rule 11(a) (“The district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant.”). The habeas corpus statute makes clear that an applicant is entitled to appeal a district court's denial of his habeas corpus petition only where a circuit justice or judge issues a certificate of appealability. 28 U.S.C. 2253(c)(1). A certificate of appealability may issue only where “the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. 2243(c)(2). This court certifies that any appeal from this determination would be frivolous and not brought in good faith; therefore, Petitioner may not take an appeal *in forma pauperis*, nor will he be granted a certificate of appealability in connection with same.

CONCLUSION

The instant Motion is dismissed as time-barred pursuant to 28 U.S.C. 2255(f). Further, the Motion is denied on its merits. Petitioner is not entitled to a certificate of appealability and, therefore, he is not entitled to appeal *in forma pauperis*. A separate order will be entered.

DONE this the 3rd day of July, 2014.

A handwritten signature in black ink, appearing to read "V. Emerson Hopkins", written in a cursive style.

VIRGINIA EMERSON HOPKINS

United States District Judge