UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION

RAYMOND ALFRED GAGNON,	)	
	)	
vs.	)	**Case No. 5:13-cv-08030-CLS-HGD**
	)	
UNITED STATES OF AMERICA.	)	

MEMORANDUM OPINION

On January 16, 2015, the magistrate judge's report and recommendation was entered and the parties were allowed therein fourteen (14) days in which to file objections to the recommendations made by the magistrate judge. After obtaining an extension of time, petitioner filed timely objections to the magistrate judge's report and recommendation on March 26, 2015.

After careful consideration of the record in this case, the magistrate judge's report and recommendation and petitioner's objections thereto, the court hereby ADOPTS the report of the magistrate judge. The court further ACCEPTS the recommendations of the magistrate judge that the Motion to Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C. § 2255 be denied.

Pursuant to Rule 11 of the *Rules Governing § 2255 Proceedings for the United States District Courts*, the Court has evaluated the claims within the petition for

suitability for the issuance of a certificate of appealability (COA). *See* 28 U.S.C. § 2253.

Rule 22(b) of the Federal Rules of Appellate Procedure provides that in a § 2255 proceeding, a petitioner cannot take an appeal unless a district judge issues a COA. Pursuant to 28 U.S.C. § 2253(c)(2), a COA may issue only when the petitioner "has made a substantial showing of the denial of a constitutional right." This showing can be established by demonstrating that "reasonable jurists could debate whether (or for that matter, agree that) the petition should have been resolved in a different manner" or that the issues were "adequate to deserve encouragement to proceed further." *Slack v. McDaniel*, 529 U.S. 473, 484, 120 S.Ct. 1595, 1603-04, 146 L.Ed.2d 542 (2000) (citing *Barefoot v. Estelle*, 463 U.S. 880, 893 & n.4, 103 S.Ct. 3383, 3394-95 & n.4, 77 L.Ed.2d 1090 (1983)). For procedural rulings, a COA will issue only if reasonable jurists could debate whether the petition states a valid claim of the denial of a constitutional right and whether the court's procedural ruling was correct. *Id.*

The Court finds that reasonable jurists could not debate its resolution of the claims presented in this § 2255 proceeding. For the reasons stated in the magistrate judge's report and recommendation, the Court DECLINES to issue a COA with respect to any claims. Petitioner is ADVISED that he may file an application to

proceed on appeal *in forma pauperis* and a request for certificate of appealability directly with the Court of Appeals for the Eleventh Circuit.

A separate order in conformity with this Memorandum Opinion will be entered contemporaneously herewith.

DONE this 29th day of July, 2015.

United States District Judge