

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GEORGE WALTON JR.,

Defendant.

Case No. 4:04-cr-0005 RRB

**ORDER DENYING MOTION TO VACATE,
SET ASIDE, OR CORRECT SENTENCE**

I. MOTION PRESENTED

Before the court is Defendant's motion to set aside or correct the sentence pursuant to 28 U.S.C. Section 2255(3) at Docket 50 and Docket 55. The motion was opposed by the United States and was subject to a Report and Recommendation by the Magistrate Judge filed at Docket 57. No objections to this report have been received.

II. STANDARD OF REVIEW

The district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate. 28 U.S.C. § 636(b)(1). When reviewing a magistrate judge's report and recommendation in a case such as this one, the

district court conducts de novo review of all conclusions of law and any findings of fact to which objections have been made. Uncontested findings of fact are reviewed for clear error.

III. DISCUSSION

The Court has reviewed the pleadings filed in this matter and has studied the well-reasoned report of the Magistrate Judge. It is clear that the relief that Defendant seeks is barred by his express waiver in the Plea Agreement. Furthermore, U.S. v Booker, 125 S. Ct. 738 (2005), is not retroactive and does not serve to assist Defendant in this matter.

IV. CONCLUSION

For the reasons set forth above, the Court **ADOPTS** the reasoning of the Magistrate Judge. Based thereon, the motion at Docket 50 and the amended motion at Docket 55 are **DENIED**.

ENTERED this 20th day of January, 2006.


/s/ RALPH R. BEISTLINE
UNITED STATES DISTRICT JUDGE