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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,
Plaintiff/Respondent,
vs.
Joshua Wayne Trotter,
Defendant/Movant

No. CV-11-0577-PHX-PGR (ECV)
No. CR-05-1135-PHX-PGR

ORDER

Having reviewed *de novo* the Report and Recommendation of Magistrate Judge Voss, filed January 23, 2012, notwithstanding that no party has filed any objections to the Report and Recommendation, the Court finds that the Magistrate Judge correctly determined that the movant’s Amended Motion to Vacate, Set Aside or Correct Sentence, filed pursuant to 28 U.S.C. § 2255, must be denied because the movant’s initial § 2255 motion was filed nearly three years after the expiration of the one-year statute of limitations set forth in 28 U.S.C.

§ 2255(f) and the movant has not shown that the limitations period should be equitably tolled. Therefore,

IT IS ORDERED that the Magistrate Judge’s Report and Recommendation (Doc. 13) is accepted and adopted by the Court.

1 IT IS FURTHER ORDERED that the movant's Motion to Amend/Supplement
2 Record Under Federal Rule of Civil Procedure 15(c) (Doc. 12) is denied.

3 IT IS FURTHER ORDERED that the movant's Amended Motion Under 28
4 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence by a Person in Federal
5 Custody (Doc. 4) is denied and that this action is dismissed.

6 IT IS FURTHER ORDERED that a Certificate of Appealability and leave to
7 proceed on appeal *in forma pauperis* are denied because the dismissal of the
8 movant's § 2255 motion is justified by a plain procedural bar and jurists of reason
9 would not find the procedural ruling debatable.

10 DATED this 11th day of April, 2012.

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13 Paul G. Rosenblatt
United States District Judge