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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

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Jeremy Wayne Beaver,

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No. CV 16-01605-PHX-FJM

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Plaintiff,

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CR 10-00324-PHX-FJM

**ORDER**

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vs.

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United States of America,

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Defendant.

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The Court has before it Plaintiff’s Motion to Vacate under §2255 (Doc. 1), the government’s Response (Doc. 4), Plaintiff’s Reply (Doc. 5), the Report and Recommendation (Doc. 6), and Plaintiff’s Objections (Doc. 7), to which no response has been filed.

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Plaintiff argues that his bank robbery conviction is not a crime of violence. The magistrate judge concludes that it is, as has the Ninth Circuit in an unpublished Memorandum Decision. We agree with the magistrate judge and the panel. We note also that the United States Sentencing Commission recently (August 1, 2016) amended its Guidelines to list “robbery” as an enumerated offense for purposes of defining a crime of violence. USSG §4B1.2. This certainly comports with one’s understanding of the difference between robbery and other theft offenses.

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We have reviewed de novo the objections and the R&R under Rule 72(b)(3), Fed. R. Civ. P. We accept the recommended disposition (Doc. 6).

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1       Accordingly, it is ORDERED DENYING plaintiff's Motion to Vacate under 28 U.S.C.  
2 §2255 (Doc. 1).

3       It is further ORDERED DENYING a Certificate of Appealability under Rule 11, Rules  
4 Governing Section 2255 Proceedings, for the reason that plaintiff has not made a substantial  
5 showing of the denial of a constitutional right under 28 U.S.C. §2253(c).

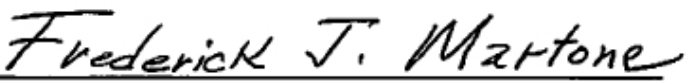
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DATED this 17<sup>th</sup> day of January, 2017.

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**Frederick J. Martone**  
**Senior United States District Judge**

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