

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

UNITED STATES

PLAINTIFF

v.

Case Nos. 2:10-CR-20034
2:11-CR-20043
2:12-CV-02147

BRENDA GOLDEN DAY

DEFENDANT

ORDER

Currently before the Court is the Report and Recommendation (Doc. 23, Case No. 10-20043) filed in this case on September 5, 2012, by the Honorable James R. Marschewski, Chief United States Magistrate for the Western District of Arkansas. The objection period has passed with no objections having been filed by either party.¹

The Court has reviewed this case and, being well and sufficiently advised, finds as follows: the Report and Recommendation is proper and should be and hereby is **ADOPTED IN ITS ENTIRETY**.

Accordingly, for the reasons stated in the Magistrate Judge's Report and Recommendation, IT IS ORDERED that Defendant's Motions to Vacate (Doc. 88 in case no. 11-20043 and Doc. 20 in case no. 10-20034), filed under 28 U.S.C. § 2255 are DENIED.

IT IS FURTHER ORDERED that the claims raised by Defendant through such motions,

¹ The Court notes that the Court did receive a letter from Defendant, addressed to Honorable Judge Holmes, on October 29, 2012. This letter did not appear to object to the Report and Recommendation and, instead, appeared to be a request to reduce Defendant's sentence based on a change in circumstance. Furthermore, the letter was sent and received after the date objections were due on September 24, 2012. Defendant is advised that, in order for any new claim to be filed under 28 U.S.C. § 2255, Defendant must use the appropriate form and follow the procedure as required by statute in order that it may be determined whether a successive claim under 28 U.S.C. §2255 is permitted by law in this case.

which the Court also filed as a Petition for Writ of Habeas Corpus, case no. 12-cv-02147, are
DISMISSED WITH PREJUDICE.

IT IS SO ORDERED this 3rd day of December, 2012.

/s/ P. K. Holmes, III

P.K. HOLMES, III
CHIEF U.S. DISTRICT JUDGE