

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HOT SPRINGS DIVISION

UNITED STATES OF AMERICA

PLAINTIFF/RESPONDENT

v.

Civil No. 10-6053
Crim. No. 01-60020

RODNEY HARPER

DEFENDANT/MOVANT

ORDER

Now on this 19th day of October 2010, there comes on for consideration the report and recommendation filed herein on July 27, 2010, by the Honorable Barry A. Bryant, United States Magistrate Judge for the Western District of Arkansas. (Doc. 113). Also before the Court are Defendant's objections (docs. 114, 115 and 117).

The court has reviewed this case *de novo* 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, the 28 U.S.C. § 2255 motion is DENIED and DISMISSED. The motion is DISMISSED WITHOUT PREJUDICE as to Movant's claim in connection with *United States v. Almony*, 598 F.3d 238 (6th Cir. 2010). Assuming the petition for certiorari is granted in that case, and the U.S. Supreme Court issues a ruling that (1) satisfies the requirements of 28 U.S.C. § 2255(f)(3) and (2) applies to the facts in Movant's case, Movant may re-file his Section 2255 motion. The motion is

DISMISSED WITH PREJUDICE in all other respects.

IT IS SO ORDERED.

/s/ Robert T. Dawson
Honorable Robert T. Dawson
United States District Judge