

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

CASE NO.: 8:05-cr-527-T-23AEP
8:08-cv-1086-T-23AEP

BRYAN TIMOTHYLEENARD SMITH
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ORDER

Smith moved (Doc. 1) to vacate his sentence under 28 U.S.C. § 2255. The court referred (Doc. 12) the matter to Magistrate Judge Anthony E. Porcelli, who conducted a hearing to determine whether Smith's counsel rendered ineffective assistance (1) by not moving to suppress Smith's statements and (2) by not investigating Smith's alibi claim. The Magistrate Judge issued his report (Doc. 21) recommending denial of the motion to vacate. Neither party objected to the report and recommendation.

Upon consideration, the court adopts the report and recommendation. Smith's motion to vacate sentence (Doc. 1) is **DENIED**. The clerk shall enter a judgment and close this case.

ORDERED in Tampa, Florida, on March 20, 2012.

Steven D. Merryday

STEVEN D. MERRYDAY
UNITED STATES DISTRICT JUDGE