

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION**

TERRY BALDWIN,

Petitioner,

v.

CASE NO. 5:13-cv-86-RS-CJK

UNITED STATES OF AMERICA,

Respondent.

_____ /

ORDER

Before me is the Magistrate Judge's Order and Report and Recommendation (Doc. 4). No objections have been filed.

IT IS ORDERED:

1. The Magistrate Judge's Report and Recommendation is approved and incorporated in this Order.
2. Construed as a motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255, Petitioner's Motion (Doc. 1) is **DISMISSED without prejudice** as an unauthorized or successive § 2255 motion.
3. Construed as a petition for writ of habeas corpus filed under 28 U.S.C. § 2241, Petitioner's Motion (Doc. 1) is **DISMISSED**

with prejudice because Petitioner has not demonstrated entitlement to proceed under that section.

4. The certificate of appealability is **DENIED** because Petitioner failed to make a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c).
5. The Clerk is directed to close the case.

ORDERED on April 30, 2013.

/S/ Richard Smoak
RICHARD SMOAK
UNITED STATES DISTRICT JUDGE