

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO. 15-62623-CIV-GAYLES/WHITE**

**MARCKENSON CHERY,**

**Movant,**

**v.**

**UNITED STATES OF AMERICA,**

**Respondent.**

---

**ORDER AFFIRMING AND ADOPTING REPORT OF MAGISTRATE JUDGE**

**THIS CAUSE** comes before the Court on Magistrate Judge Patrick A. White’s Report of Magistrate Judge (“Report”) [ECF No. 39]. On December 10, 2015, Marckenson Chery (“Movant”) filed his Motion to Vacate pursuant to 28 U.S.C. § 2255 [ECF No. 1]. The matter was referred to Judge White, pursuant to 28 U.S.C. § 636(b)(1)(B) and Administrative Order 2003-19 of this Court, for a ruling on all pretrial, non-dispositive matters, and for a Report and Recommendation on any dispositive matters. [ECF No. 3]. On May 29, 2016, Movant filed his amended motion to vacate, raising two new claims and abandoning the claims from his original motion to vacate [ECF No. 17]. On February 14, 2017, Judge White issued his Report recommending that Movant’s motion to vacate sentence be denied as untimely. Petitioner has filed timely objections to the Report [ECF No. 47].

A district court may accept, reject, or modify a magistrate judge’s report and recommendation. 28 U.S.C. § 636(b)(1). Those portions of the report and recommendation to which objection is made are accorded *de novo* review, if those objections “pinpoint the specific findings that the party disagrees with.” *United States v. Schultz*, 565 F.3d 1353, 1360 (11th Cir. 2009); *see also* Fed.

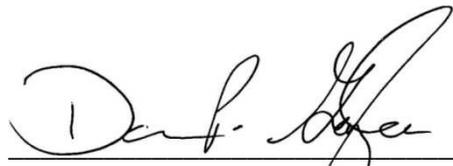
R. Civ. P. 72(b)(3). Any portions of the report and recommendation to which *no* specific objection is made are reviewed only for clear error. *Liberty Am. Ins. Grp., Inc. v. WestPoint Underwriters, L.L.C.*, 199 F. Supp. 2d 1271, 1276 (M.D. Fla. 2001); *accord Macort v. Prem, Inc.*, 208 F. App'x 781, 784 (11th Cir. 2006).

The Court, having conducted a *de novo* review of the record, agrees with Judge White's well-reasoned analysis and recommendations. Accordingly, it is

**ORDERED AND ADJUDGED** as follows:

- (1) Judge White's Report and Recommendation [ECF No. 39] is **AFFIRMED AND ADOPTED** and incorporated into this Order by reference;
- (2) Movant's Amended Motion to Vacate is **DENIED**;
- (3) no certificate of appealability shall issue; and
- (4) this case is **CLOSED**.

**DONE AND ORDERED** in Chambers at Miami, Florida, this 28th day of March, 2017.

  
\_\_\_\_\_  
DARRIN P. GAYLES  
UNITED STATES DISTRICT JUDGE