

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CASE NO. 16-22536-CIV-SEITZ

IRVIN GREEN,

Movant,

vs.

UNITED STATES OF AMERICA,

Respondent.

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**ORDER ADOPTING REPORT, DENYING CERTIFICATE OF APPEALABILITY,  
AND CLOSING CASE**

THIS CAUSE is before the Court on the Report and Recommendation [DE-7] of Magistrate Judge Turnoff, in which he recommends that Movant's Motion to Vacate Pursuant to 28 U.S.C. § 2255 be denied and that Movant's reply brief [DE-6] be stricken. Movant sought to set aside his conviction and sentence. Movant maintains that he is actually innocent of the crimes of which he was convicted because Hobbs Act Robbery no longer qualifies as a predicate "crime of violence" under 18 U.S.C. § 924(c). The Report and Recommendation (the Report) recommends that the Motion be denied because the Eleventh Circuit has held that Hobbs Act robbery qualifies as a "crime of violence" under § 924(c)(3)(A). Neither side has filed any objections to the Report and Recommendation. Thus, having carefully reviewed, *de novo*, Magistrate Judge Turnoff's Report, the record, and given that Movant does not object, it is

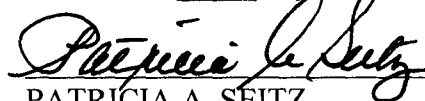
ORDERED that:

(1) The above-mentioned Report and Recommendation [DE-7] is AFFIRMED and ADOPTED, and incorporated by reference into this Court's Order.

(2) Movant's Motion to Vacate Pursuant to 28 U.S.C. § 2255 [DE-1] is DENIED.

- (3) All pending motions not otherwise ruled upon in this Order are DENIED AS MOOT.
- (4) The Court will not issue a Certificate of Appealability.
- (5) This case is CLOSED.

DONE AND ORDERED in Miami, Florida, this 2<sup>nd</sup> day of October, 2017.

  
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PATRICIA A. SEITZ  
UNITED STATES DISTRICT JUDGE

cc: All counsel of record