

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Case No. 18-cv-21240-KMW
(Criminal Case No. 15-cr-20544-KMW-2)**

ANTRON LANGSTON,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

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ORDER

THIS MATTER is before the Court on Magistrate Judge Lisette M. Reid’s report and recommendation (DE 53) (“Report”) regarding Plaintiff’s amended motion to vacate filed pursuant to 28 U.S.C. § 2255 (DE 6). The Report recommends that the Court vacate Mr. Langston’s conviction and sentence in Count 3 because he has met his burden of showing that he is entitled to relief under § 2255 and *United States v. Davis*, 139 S. Ct. 2319 (2019). No objections to the Report were filed and the time to do so has passed. Upon an independent review of the Report, the record, and applicable case law, it is

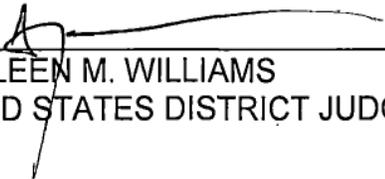
ORDERED AND ADJUDGED that:

1. The conclusions in the Report (DE 53) are **AFFIRMED AND ADOPTED**.
2. The amended motion (DE 6) is **GRANTED IN PART AND DENIED IN PART**.
3. Mr. Langston’s conviction and sentence in Count 3 is **VACATED**.
4. Mr. Langston shall be **RESENTENCED** as to Count 1 only. Separate order to follow.
5. A certificate of appealability shall issue on “whether a movant prevails under *Davis* when he pleads guilty only to an offense that is not a valid § 924(c) predicate and

the record indicates that the court based his § 924(c) conviction on only the invalid predicate, but when the indictment alternatively predicates his § 924(c) charge on an offense that is a valid § 924(c) predicate and the record indicates that he committed that offense despite not pleading guilty to it.”

6. A certificate of appealability shall not issue on the remaining claims in Mr. Langston’s amended motion.
7. All pending motions are **DENIED AS MOOT**.
8. The Clerk is directed to **CLOSE** this case.

DONE AND ORDERED in Chambers in Miami, Florida, this 15th day of September, 2020.


KATHLEEN M. WILLIAMS
UNITED STATES DISTRICT JUDGE

cc:
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