

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

CASE NO.: 08-14385-CIV-MIDDLEBROOKS/WHITE

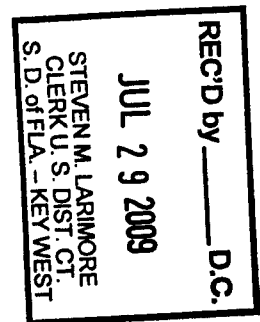
ANTHONY J. SANDERS,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.



ORDER ADOPTING REPORT AND RECOMMENDATION [DE 8]

THIS CAUSE came before the Court upon the Movant, Mr. Sanders' *pro se* motion to vacate pursuant to 28 U.S.C. 2255 [DE 1], attacking his conviction and/or sentence imposed in Case No. 00-14086-CR-Middlebrooks, for possession with intent to distribute five grams or more of crack cocaine, in violation of 21 U.S.C. § 841, and the Magistrate Judge's Report and Recommendation ("Report") [DE 8]. Mr. Sanders did not file an objection. The Court has reviewed the record and the Report.

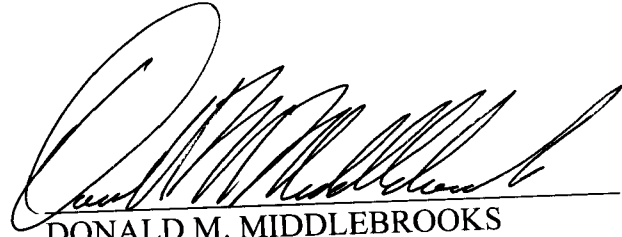
The Report concludes that Mr. Sanders' notice of appeal divests this Court of jurisdiction to entertain a collateral attack upon the validity of the conviction and sentence. Therefore, as this Court lacks jurisdiction to entertain the collateral attack, the Movant's motion to stay and reply [DE 9] and request for equitable tolling [DE 10] are moot, because the Movant's claim will be denied without prejudice as to any issue not cognizable on appeal. Accordingly, for the reasons set forth in the Report and an independent *de novo* review, it is hereby

ORDERED AND ADJUDGED that Magistrate Judge White's Report [DE 8] is RATIFIED, ADOPTED and APPROVED in its entirety. Plaintiff's claims is DISMISSED WITHOUT

PREJUDICE as to any issue not cognizable on appeal. It is further

ORDERED AND ADJUDGED that the Movant's motion to stay and reply [DE 9] and request for equitable tolling [DE 10] are DENIED AS MOOT.

DONE AND ORDERED in Chambers in Miami, Florida, this 29 day of July, 2009.



DONALD M. MIDDLEBROOKS
UNITED STATES DISTRICT JUDGE

cc: Anthony J. Sanders, *pro se*
Reg. No. 39637-018
FCC-Coleman Low
Address of Record

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