UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-14404-CIV-GRAHAM
(99-14031-CR-MOORE)
MAGISTRATE JUDGE P.A. WHITE

AARON ROGERS,                    :

    Movant,                      :
                                              REPORT RECOMMENDING DENIAL OF
v.                               :            CERTIFICATE OF APPEALABILITY
                                                    MOTION TO VACATE
UNITED STATES OF AMERICA,        :                    DE#s 15&16

    Respondent.                  :
_____

    This Cause is before the Court upon the motion of the movant
for certificate of appealability pursuant to 28 U.S.C. §2253 and
Fed.R.App.P. 22(b), both as amended April 24, 1996 (DE#s 15 &16).
This motion has been referred to the undersigned for consideration
and report (DE#17).

    A certificate of appealability shall not issue unless the
Court rules that upon one or more specific issues the movant has
made a substantial showing of the denial of a constitutional right.

    To merit a certificate of appealability, the appellant must
show that reasonable jurists would find debatable both (1) the
merits of an underlying claim, and (2) the procedural issue he
seeks to raise.  See 28 U.S.C. §2253(c)(2); Slack v. McDaniel, 529
U.S. 473, 120 S.Ct. 1595, 146 L.Ed.2d 542 (2000).

    After reevaluation of the claims, if the Court grants such a
certificate it must state which specific issue or issues satisfy
the requirement that the applicant has made a substantial showing
of the denial of a constitutional right.  28 U.S.C. §2253(c)(2) and
(3).  Review of the file in this case reveals that no such showing
has been made. In a detailed Report entered by the Undersigned

Magistrate Judge is was recommended that this motion to vacate be dismissed as time barred, and alternatively, denied on the merits. The Report was Adopted by United States District Judge Donald L. Graham.

It is therefore recommended that the Court deny the motion for certificate of appealability. (DE#15 & 16)

Objections to this report may be filed with the District Judge within ten days of receipt of a copy of the report.

Dated this 18$^{th}$ day of June, 2009.

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UNITED STATES MAGISTRATE JUDGE

cc:  Aaron Rogers, <u>Pro Se</u>
     FCC Coleman
     Address of Record

     Attorney's of record