UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF FLORIDA CASE NO. 09-81124-Civ-HURLEY (98-8047-Cr-HURLEY) MAGISTRATE JUDGE P. A. WHITE

MILLARD CHAVERS, :

Movant, :

v.

UNITED STATES OF AMERICA, :

Respondent. :

ORDER ADOPTING REPORT AND RECOMMENDATION OF MAGISTRATE JUDGE, ENTERING FINAL JUDGMENT DISMISSING MOTION TO VACATE, AND CLOSING CASE

THIS CAUSE is before the court upon a motion to vacate, filed pursuant to 28 U.S.C. §2255, and the Report and Recommendations of the Honorable Patrick A. White, United States Magistrate Judge.

Pursuant to Fed.R.Civ.P. 72(b), "[T]he district judge ... shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule." The rule requires that objections be filed within ten days of service of the Report and Recommendations, and that the objecting party arrange for transcription of sufficient portions of the record. Fed.R.Civ.P. 72(b). The district judge may then "accept, reject, or modify the recommended decision, receive further evidence, or recommit the matter to the magistrate judge with instructions." Id. Portions of the Report and Recommendations that are not specifically objected to are subject to the clear error standard. The identical requirements are set forth in 28 U.S.C. §636(b)(1).

After considering the Report of the Magistrate Judge, as well

as, any objections filed thereto, and after conducting a *de novo* review of the record as a whole, it is hereby **ORDERED AND ADJUDGED** as follows:

- 1. The Report and Recommendations of the United States Magistrate Judge (DE# $\underline{9}$) is **ADOPTED** in its entirety and incorporated herein by reference.
- 2. The motion to vacate is **dismissed without prejudice**. Counsel shall be appointed in the underlying criminal case to represent the movant on direct appeal from the judgment of conviction.
- 3. All pending motions not otherwise ruled upon are **DENIED**, as moot.
 - 4. This case is CLOSED.

DONE and SIGNED in Chambers at West Palm Beach, Florida on his 2009.

UNITED STATES DISTRICT JUDGE

cc: Millard Chavers, Pro Se

Req. No. 198690

DeSoto Correctional Institution-Annex

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