

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**  
CASE NO. 10-81117-CIV-MIDDLEBROOKS/WHITE  
RELATED CASE NO. 10-81098-CIV-MIDDLEBROOKS/WHITE  
(08-80094-CR-MIDDLEBROOKS)

**GARRY HAGGINS, JR.,**

Movant,

v.

**UNITED STATES OF AMERICA,**

Respondent.

**ORDER ADOPTING REPORT AND RECOMMENDATION**

THIS CAUSE comes before the Court on the United States' Motion for Consolidation (DE 7), filed on September 29, 2010.

Garry Haggins ("Haggins" or "Movant") has filed two separate §2255 motions to vacate his criminal sentence in Case No. 08-80094-Cr-Middlebrooks, the first on September 15, 2010 in Case No. 10-81098-Civ-Middlebrooks/White, and the second on September 20, 2010 in the above-captioned case. Both motions allege that counsel's performance at the sentencing stage of Movant's criminal proceeding was constitutionally-deficient; however, each contains a slightly different theory as to how counsel failed to meet his burden. In Case No. 10-81098, Movant alleges that his counsel failed to exercise due diligence in reviewing the Pre-Sentence Investigation ("PSI") Report and, furthermore, that his counsel failed to maintain proper attorney-client communication. (Case No. 10-81098, DE 1 at 4). In the above-captioned case, meanwhile, Movant submits that his counsel failed to adequately challenge the basis for Movant's sentence at the sentencing hearing, and failed to pursue a direct appeal over Movant's protests. (DE 1 at 3).

Due to the duplicity of the two §2255 motions, and in the interest of judicial economy, the United States asks that the Court consolidate the motion in this case with the motion in Case No.10-81098-Civ-Middlebrooks. (DE 7 ¶ 3). Mr. Haggins has not responded.

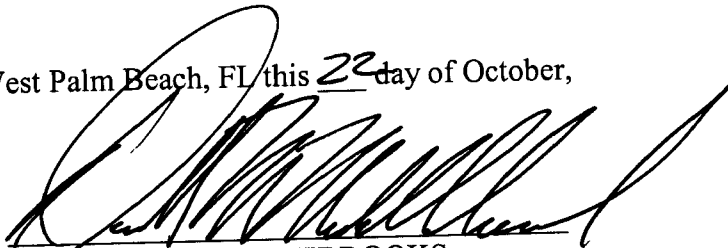
Magistrate Judge Patrick A. White has reviewed the Government's Motion, and Mr. Haggins' § 2255 motions, and has issued a Report and Recommendation ("R&R") (DE 8) advising that, in lieu of consolidation, the Court dismiss this case and give Movant an opportunity to amend his motion in the lower numbered case as necessary. (DE 8 at 1-2). The Court agrees that this approach would better accommodate the Court's due process and judicial efficiency objectives.

Accordingly, it is hereby

**ORDERED AND ADJUDGED** that Judge White's Report and Recommendation (DE 8) is **RATIFIED, ADOPTED, AND APPROVED** in its entirety. This case is **DISMISSED**. The Clerk of Court is instructed to **CLOSE THIS CASE**, and the parties are instructed to file only in Case No. 10-81098-Civ-Middlebrooks/White going forward. It is further

**ORDERED AND ADJUDGED** that the United States' Motion for Consolidation (DE 7) is **DENIED AS MOOT**.

**DONE AND ORDERED** in Chambers at West Palm Beach, FL this 22 day of October, 2010.

  
DONALD M. MIDDLEBROOKS  
UNITED STATES DISTRICT JUDGE

cc: Counsel of Record;  
Garry Haggins Jr., *pro se*  
Reg. No. 73340-004  
FCI-Jesup  
2680 301 South  
Jesup, GA 31599