

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

FILED
U.S. DISTRICT COURT
AUGUSTA DIV.
2017 OCT 11 P 4: 28
CLERK [Signature]
SO. DIST. OF GA.

MARION STURGIS DONALDSON,)
)
Petitioner,)
)
v.)
)
UNITED STATES OF AMERICA,)
)
Respondent.)

CV 115-078
(Formerly CR 111-361)

ORDER

After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge’s Reports and Recommendations, dated June 30, 2017, and July 11, 2017, to which objections have been filed (doc. no. 31). Accordingly, the Court **ADOPTS** both Reports and Recommendations of the Magistrate Judge as its opinion (doc. nos. 25, 27), **DENIES** Petitioner’s motion to set aside declaration of forfeiture (doc. no. 10), **DENIES** Petitioner’s motion to amend (doc. no. 22), and **DENIES** without an evidentiary hearing the motion filed pursuant to 28 U.S.C. § 2255.

Further, a federal prisoner must obtain a certificate of appealability (“COA”) before appealing the denial of his motion to vacate. This Court “must issue or deny a certificate of appealability when it enters a final order adverse to the applicant.” Rule 11(a) to the Rules Governing Section 2255 Proceedings. This Court should grant a COA only if the prisoner makes a “substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). For the reasons set forth in the Reports and Recommendations, and in consideration of the

standards enunciated in Slack v. McDaniel, 529 U.S. 473, 482-84 (2000), Petitioner has failed to make the requisite showing. Accordingly, the Court **DENIES** a COA in this case.¹ Moreover, because there are no non-frivolous issues to raise on appeal, an appeal would not be taken in good faith. Accordingly, Petitioner is not entitled to appeal *in forma pauperis*. See 28 U.S.C. § 1915(a)(3).

Upon the foregoing, the Court **CLOSES** this civil action and **DIRECTS** the Clerk to enter final judgment in favor of Respondent.

SO ORDERED this 15 day of October, 2017, at Augusta, Georgia.


UNITED STATES DISTRICT JUDGE

¹“If the court denies a certificate, a party may not appeal the denial but may seek a certificate from the court of appeals under Federal Rule of Appellate Procedure 22.” Rule 11(a) to the Rules Governing Section 2255 Proceedings.