In the United States District Court
For the Southern District of Georgia
Brunswick Division

ROBERT TROY ALTMAN,	*	
	*	
Petitioner,	*	CIVIL ACTION NO.: 2:15-cv-141
	*	
v.	*	
	*	
UNITED STATES OF AMERICA,	*	(Case No.: 2:14-cr-15)
	*	
Respondent.	*	

ORDER

Movant Robert Troy Altman, ("Altman"), who is currently incarcerated at the Atlanta Federal Prison Camp in Atlanta, Georgia, filed a Motion to Vacate, Set Aside, or Correct his Sentence obtained in this Court pursuant to 28 U.S.C. § 2255. (Dkt. No. 1.) This Court ordered service of Altman's Motion on Respondent and directed Respondent to file a Response. (Dkt. No. 4.) Respondent filed a Motion for Extension of Time to File a Response/Reply to Altman's Section 2255, (dkt. no. 6), which the Court granted on November 17, 2016, (dkt. no. 7). However, the Court's Order was returned as undeliverable. (Dkt. No. 8.) The Court then Ordered Altman to advise the Court of his current address, and that Order was also returned as undeliverable.

(Dkt. No. 9.) Consequently, Magistrate Judge R. Stan Baker recommended that the Court dismiss Altman's Section 2255 Motion for failure to prosecute and failure to follow this Court's Order on December 19, 2016. (Dkt. No. 11.)

Following the Magistrate Judge's Report and Recommendation, Altman submitted a Motion to Withdraw his 28 U.S.C. § 2255 Motion. (Dkt. No. 13.) Within that Motion Altman stated that "when [he] filed [his] motion to vacate, [he] was having a hard time accepting [his] conviction," and that "[a]fter being incarcerated for more than a year, [he has] had the time to reflect on matters" and "feel[s] that [his] attorney ha[s] done a good job and [that he is] satisfied with the results." (Id. at p. 1.) Accordingly, Altman requests that the Court dismiss his Section 2255 Motion.

Federal Rule of Civil Procedure 41(a)(1)(A)(i) provides that a plaintiff may unilaterally dismiss an action at any time before the opposing party has filed an answer or motion for summary judgment. Rule 41 applies to Section 2255 proceedings. Descent v. United States, Nos. 8:03-CV-2658; 8:00-CR-186, 2006 WL 1152172, at *1 (M.D. Fla. Apr. 28, 2006); see also Rule 12 Governing Section 2255 Motions.

Altman filed his Motion to Withdraw prior to Respondent filing an answer to Altman's Section 2255 Motion. Accordingly, upon due consideration, the Court **GRANTS** Altman's Motion to

Withdraw his Section 2255 Motion. The Court **DISMISSES** Altman's Section 2255 Motion without prejudice, and **DISMISSES AS MOOT** the Magistrate Judge's Report and Recommendation. The Court **DIRECTS** the Clerk of Court to enter the appropriate judgment of dismissal and to **CLOSE** this case

SO ORDERED, this 10 day of January, 2017.

LISA GODBEY WOOD, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA