

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

NATHAN P. NEWHAM,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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CIVIL ACTION NO.: 2:16-cv-9

(Case No.: 2:14-cr-12)

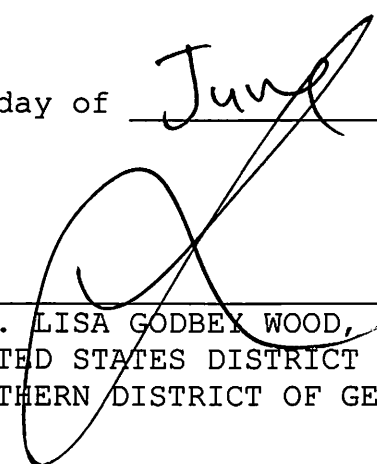
ORDER

After an independent and *de novo* review of the entire record, the undersigned concurs with the Magistrate Judge's Report and Recommendation, dkt. no. 19, to which Nathan Newham ("Newham") filed Objections.¹ Accordingly, the Court **ADOPTS** the Magistrate Judge's Report and Recommendation as the opinion of the Court. The Court **DENIES in part** and **DISMISSES without prejudice in part** Newham's Motion to Vacate, Set Aside, or Correct his Sentence, filed pursuant to 28 U.S.C. § 2255.

¹ In his Objections, Newham requests that the Court consider his claim for a downward departure pursuant to Amendment 794, which applies retroactively. Dkt. No. 20, p. 4. While this Amendment to the United States Sentencing Guidelines is retroactively applicable, it offers Newham no relief. See United States v. Donis-Galan, 646 F. App'x 867 (11th Cir. 2016). Regardless of the retroactive application of this Amendment, Newham fails to overcome the appeal and collateral attack waivers contained in his plea agreement or to otherwise establish that his trial counsel rendered ineffective assistance.

The Court **DENIES** Newham *in forma pauperis* status on appeal and a Certificate of Appealability. The Court **DIRECTS** the Clerk of Court to **CLOSE** this case and to enter the appropriate judgment of dismissal.

SO ORDERED, this 13 day of June, 2017.



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