

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

MARK DAMON WILLIAMS,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.

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CIVIL ACTION NO.: 2:16-cv-98

(Case No.: 2:05-cr-44)

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. 8, to which Movant Mark Williams ("Williams") filed Objections, dkt. no. 10. In his Objections, Williams largely repeats portions of the Magistrate Judge's analysis verbatim. To the extent Williams has made assertions independent of the Magistrate Judge's Report and Recommendation, the Court addresses Williams' assertions. Specifically, Williams contends his two (2) September 15, 1997, possession with intent to distribute convictions should count as a single predicate offense for purposes of the Armed Career Criminal Act, ("ACCA") 18 U.S.C. § 924(e). Id. at pp. 10-12.

However, as the Magistrate Judge correctly noted, these claims are due to be rejected for several reasons. First, these claims are untimely. Moreover, the claims are unavailing, as the offenses were committed on occasions different from one another. Additionally, ven if these two convictions could be considered as one conviction for purposes of the ACCA, Williams would still have the requisite predicate offenses under the ACCA. Dkt. No. 8, p. 12 & n.5. Accordingly, Williams was properly sentenced under the ACCA, and his assertions to the contrary are without merit.

Thus, the Court **OVERRULES** Williams' Objections and **ADOPTS** the Magistrate Judge's Report and Recommendation as the opinion of the Court. The Court **DISMISSES in part** and **DENIES in part** Williams' 28 U.S.C. § 2255 Motion to Vacate, Set Aside, or Correct his Sentence. The Court **DISMISSES as untimely** Williams' claims that are not based on Johnson v. United States, ___ U.S. ___, 135 S. Ct. 2551 (June 26, 2015), and **DENIES** Williams' Johnson-based claims on the merits. The Court **DIRECTS** the Clerk of Court to **CLOSE** this case and to enter the appropriate judgment of dismissal. The Court **DENIES** Williams *in forma*

pauperis status on appeal and a Certificate of Appealability.

SO ORDERED, this 9 day of March, 2018.

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