**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

EDDIE LEE CLEMONS,   )
)
     Petitioner,   )
)
v.   )   CASE NOS. CV416-005
)   CR408-225
UNITED STATES OF AMERICA,   )
)
     Respondent.   )
_____)

O R D E R

Before the Court is the Magistrate Judge's Report and Recommendation (Doc. 9), to which objections have been filed (Doc. 12). After a careful de novo review of the record, the Court concludes that Petitioner's objections are without merit. Accordingly, the Report and Recommendation is **ADOPTED** as the Court's opinion in this case. As a result, Petitioner's 28 U.S.C. § 2255 Petition is **DENIED**. In addition, Petitioner is not entitled to a Certificate of Appealability, rendering moot any request for in forma pauperis status on appeal. The Clerk of Court is **DIRECTED** to close this case.

In his objections, Petitioner contends that his prior Georgia burglary convictions are not violent felonies under the Armed Career Criminal Act because he actually pled guilty to lesser included offenses that did not include as

an element of the offense the entry into a building without authority. (Doc. 12 at 2-3.) However, the record clearly refutes Petitioner's characterization. (See Doc. 3, Ex. A at 3, ¶ 3 (stating that Petitioner pled guilty to the burglary offense "as contained in [the] Indictment"); id., Ex. B at 2 (indicating that Petitioner pled guilty to the burglary count as charged in the indictment, not a lesser included offense); id., Ex. C at 10 (same).) As a result, Petitioner's prior "Georgia burglary convictions qualify as violent felonies under the [Armed Career Criminal Act's] enumerated crimes clause." United States v. Gundy 842 F.3d 1156, 1169 (2016). Accordingly, Petitioner's objection lacks merit.

SO ORDERED this 3ʳᵈ day of February 2017.

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WILLIAM T. MOORE, JR.
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA