

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF GEORGIA SAVANNAH DIVISION U.S. DISTRICT COURT Southern District of GA Filed In Office

8/29/2017 M Deputy Clerk

DONALD LEE UBELE, Petitioner, v. UNITED STATES OF AMERICA, Defendant.

CASE NOS. CV416-143 CR405-012

ORDER

Before the Court are Petitioner's Motion to Correct Pursuant to Federal Rule of Criminal Procedure 36 (Doc. 19) and Motion for Certificate of Appealability (Doc. 22). After careful consideration of both Plaintiff's Motion to Correct and the record, the Court concludes that Petitioner is not entitled to relief. Accordingly, Petitioner's Motion to Correct (Doc. 19) is DENIED.

The Magistrate Judge's March 23, 2017 Report and Recommendation (Doc. 12) that was adopted by this Court (Doc. 14) recommended that no Certificate of Appealability should issue. In addition, this Court's order adopting the Report and Recommendation expressly stated that "Petitioner [was] not entitled to a Certificate of Appealability." (Id. at 1.) Therefore, this Court will construe Petitioner's

Motion for Certificate of Appealability as seeking reconsideration of this Court's prior order.

Pursuant to 28 U.S.C. § 2253(c), an appeal may not be taken in this matter unless the court issues a Certificate of Appealability. This certificate may issue only if Petitioner has made a substantial showing of the denial of a constitutional right. Slack v. McDaniel, 529 U.S. 473, 484 (2000). The Court has carefully considered Petitioner's case and finds that he cannot meet the above standard. Therefore, the Court sees no reason to disturb its prior order. Accordingly, Petitioner's Motion for Certificate of Appealability (Doc. 22) is DENIED.

SO ORDERED this 29th day of August 2017.



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