

U.S. DISTRICT COURT  
SAVANNAH DIV.

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

2017 MAR 20 PM 4:43

CLERK OF COURT  
SOUTHERN DISTRICT OF GA.

KEVIN LEROY GREEN, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 UNITED STATES OF AMERICA, )  
 )  
 Respondent. )  
 )

CASE NOS. CV416-198  
CR407-042


O R D E R

Before the Court is the Magistrate Judge's Report and Recommendation (Doc. 13), to which objections have been filed (Doc. 19). In his objections, Petitioner does not contest the Magistrate Judge's conclusion that his 1987 conviction for aggravated assault is an enhancement triggering conviction under the Armed Career Criminal Act ("ACCA"), 18 U.S.C. § 924(e). Instead, Petitioner argues that his 1989 conviction for the sale of cocaine and 2001 conviction for possession of marijuana with intent to distribute do not qualify as serious drug offenses. (Doc. 19 at 2-5.) However, this objection is without merit.

As the Report and Recommendation clearly articulated, Petitioner's conviction for the sale of cocaine is a qualifying "serious drug offense" for ACCA sentencing purposes. (Doc. 13 at 6.) Therefore, Petitioner can have no relief on that front. Petitioner's argument regarding his conviction for possession of

marijuana with intent to distribute likewise fails. Petitioner argues that the Court should evaluate the transcript of his guilty plea to show that he was not convicted for possession with intent to distribute, but rather merely of possession. (Doc. 19 at 4.) However, the Shepard documents, including the transcript Petitioner attached in his objection, clearly note that Petitioner pled guilty to possession with intent to distribute. Accordingly, the report and recommendation is **ADOPTED** as the Court's opinion in this case and Petitioner's 28 U.S.C. § 2255 motion 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.

SO ORDERED this 20<sup>th</sup> day of March 2017.

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