

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

11/31/18 Deputy Clerk

DARIUS ANDRE HOLMES, Petitioner, v. UNITED STATES OF AMERICA, Respondent.

CASE NOS. CV417-147 CR415-144

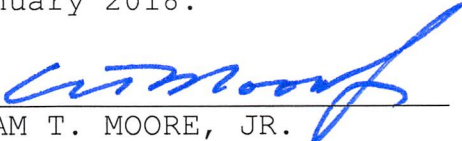
O R D E R

Before the Court is the Magistrate Judge's Report and Recommendation (Doc. 5), to which objections have been filed (Doc. 8). 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 advances the general argument that the Government is unable to establish that his prior convictions qualify as predicate offenses under the Armed Career Criminal Act ("ACCA") because the state

documents fail to identify the specific subsection of the state statute under which he was convicted. However, this Court has reviewed those documents and the record in this case, and is satisfied that Petitioner garnered at least three predicate offenses prior to his conviction in this case. Therefore, Petitioner's sentence was properly enhanced under the ACCA.

SO ORDERED this 31ST day of January 2018.



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