

**United States District Court
for the Southern District of Georgia
Statesboro Division**

FILED
U.S. DISTRICT COURT
BRUNSWICK DIV.

2017 MAY 22 P 3:11

CLERK *D. Taylor*
SO. DIST. OF GA.

JUANICE GAINES,)	
)	
Movant,)	
)	
v.)	CV617-006
)	CR608-012
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

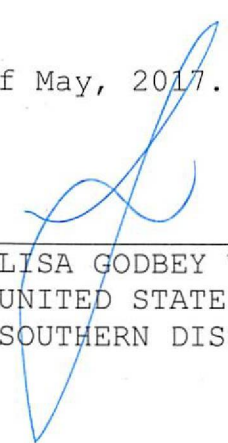
ORDER

After a careful, de novo review of the file, the Court concurs with the Magistrate Judge's Report and Recommendation (R&R) (doc. 7), to which objections have been filed. Doc. 8 (movant's "motion to amend" seeks amendment in name only -- in substance it objects to the R&R and recapitulates parts of Gaines' original motion in less detail and without any law or facts beyond his own musings). Accordingly, the Report and Recommendation of the Magistrate Judge is **ADOPTED** as the opinion of the Court.

Further, 28 U.S.C. § 2255 movants must obtain a certificate of appealability ("COA") before appealing the denial of his application for writ of habeas corpus. 28 U.S.C. § 2253(c)(1)(B). This Court "must issue or deny a [COA] when it

enters a final order adverse to the applicant." Rule 11(a) to the Rules Governing Section 2255 Proceedings. This Court should grant a COA only if the prisoner makes a "substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). For the reasons set forth in the Report and Recommendation, and under the standards enunciated in *Slack v. McDaniel*, 529 U.S. 473, 482-84 (2000), movant has failed to make the requisite showing. Accordingly, a COA is **DENIED** in this case.¹ Moreover, because there are no non-frivolous issues to raise on appeal, an appeal would not be taken in good faith. Accordingly, movant is not entitled to appeal *in forma pauperis*. See 28 U.S.C. § 1915(a)(3).

SO ORDERED this 19 day of May, 2017.



LISA GODBEY WOOD, DISTRICT JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA

¹ "If the court denies a certificate, [a party] may not appeal the denial but may seek a certificate from the court of appeals under Federal Rule of Appellate Procedure 22." Rule 11(a) to the Rules Governing Section 2255 Proceedings.