

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION
(at Lexington)

*** *** *** ***

Defendant/Movant Bud Hembree has filed a motion seeking to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. [Record No. 260] Consistent with local practice, the matter was referred to a United States Magistrate Judge for preparation of a Report and Recommendation (“R&R”). On February 12, 2025, United States Magistrate Judge Edward B. Atkins issued his R&R, recommending the denial of Hembree’s motion. [Record No. 274] Neither party filed timely objections to the R&R.

This Court must make a *de novo* determination of those portions of the magistrate judge’s recommendation to which objections are made. *See* 28 U.S.C. § 636(b)(1)(C). However, “[i]t does not appear that Congress intended to require district court review of a magistrate’s factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings.” *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Accordingly, the R&R will be adopted and the relief sought by the defendant will be denied.

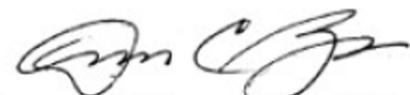
The undersigned also concludes that a Certificate of Appealability should not issue under 28 U.S.C. § 2253(c). A certificate of appealability should be granted “only if the

applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). To make such a showing, a movant must show that “reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Miller-El v. Cockrell*, 537 U.S. 322, 349-50 (2003). Here, reasonable jurists would not find the denial of Hembree’s claims to be debatable or wrong, as none present a close question.

Based on the foregoing, it is hereby **ORDERED** as follows:

1. United States Magistrate Judge Edward B. Atkins’ Report and Recommendation [Record No. 274] is **ADOPTED** and **INCORPORATED** by reference.
2. Defendant/Movant Bud Hembree’s motion to vacate, set aside, or correct his sentence [Record No. 260] is **DENIED**.
3. Defendant/Movant Hembree’s claims are **DISMISSED**, with prejudice, and his collateral proceeding [Civil Action No. 5: 24-277] is **STRICKEN** from the docket.
3. A Certificate of Appealability will not issue.

Dated: March 5, 2025.



Danny C. Reeves, District Judge
United States District Court
Eastern District of Kentucky