

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA

v.

KEVIN SCOTT

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Civil No. – JFM-13-3181
Criminal No. JFM-09-0581

MEMORANDUM

Kevin Scott has filed a motion to vacate pursuant to 28 U.S.C. §2255. The motion has been fully briefed. It will be denied.

The four claims asserted by Scott in support of this motion are entirely without merit.

First, Scott complains that his trial lawyer was allegedly ineffective in failing to move to dismiss the indictment because the indictment did not charge the elements of aiding and abetting. This contention is entirely academic because Scott pled guilty, not as an aider and abetter but as a principal. Moreover, aiding and abetting liability need not be charged in an indictment. *See United States v. Day*, 700 F.3d 713, 720 (4th Cir. 2012).

Second, Scott asserts that his trial counsel was ineffective in promising him that he would not be found to be a career offender. During his arraignment Scott denied that he was made any promises not contained in the plea agreement, and the plea agreement specifically left open the possibility that Scott could be found to be a career offender. In any event, the sentence that this court imposed (which was pursuant to a plea entered under Fed. R. Crim. P. 11(c)(1)(C) that provided a prison term between 20 and 25 years) was less than the sentence that Scott would have received as a career offender.

