

done so, the Court finds itself in complete agreement with Magistrate Judge Pitman's Report and Recommendation and hereby adopts its reasoning by reference. Accordingly, the Court dismisses the action, with prejudice. In addition, because petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. See 28 U.S.C. § 2253. Moreover, the Court certifies that any appeal from this Order would not be taken in good faith, as petitioner's claim lacks any arguable basis in law or fact, and therefore permission to proceed in forma pauperis is also denied. See 28 U.S.C. § 1915(a)(3); see also Seimon v. Emigrant Savs. Bank (In re Seimon), 421 F.3d 167, 169 (2d Cir. 2005).

Finally, for substantially the reasons given in Magistrate Judge Pitman's October 23, 2012, order denying petitioner's request for appointment of counsel, the Court denies petitioner's "motion for relief from Judgment of October 23, 2012" dated December 12, 2012. Accordingly, the Clerk of the Court is directed to close document number 17 on the docket sheet of this case; to close the "motion to vacate under 28 U.S.C. 2255" shown as pending on the docket sheet of Case No. 00 Cr. 103 (JSR); and to enter judgment.

SO ORDERED.



JED S. RAKOFF, U.S.D.J.

Dated: New York, New York
January 1e 2013