

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:11-cv-243-FDW
(3:07-cr-61-FDW-4)**

CHAVIUS MARQUETTE BARBER,)
)
 Petitioner,)
)
 v.)
)
 UNITED STATES OF AMERICA,)
)
 Respondent.)
 _____)

ORDER

THIS MATTER is before the Court on Petitioner’s Motion for Reconsideration of this Court’s Order on Petitioner’s previously filed Motion to Amend/Correct his Motion to Vacate, Set Aside, Correct Sentence, (Doc. No. 22). Petitioner seeks an Order from this Court essentially reversing its earlier decision denying his motion to vacate, based on the U.S. Supreme Court’s decision in Alleyne v. United States, No. 11-9335 (June 17, 2013).

Petitioner’s Motion for Reconsideration is denied as an unauthorized, successive petition, for the same reasons articulated by the Court in its Order of November 1, 2012, denying another motion for reconsideration by Petitioner as an authorized, successive petition.

IT IS THEREFORE ORDERED that:

- (1) Petitioner’s Motion for Reconsideration, (Doc. No. 22), is DENIED as an unauthorized, successive petition.
- (2) **IT IS FURTHER ORDERED** that pursuant to Rule 11(a) of the Rules Governing Section 2254 and Section 2255 Cases, this Court declines to issue a certificate of appealability. See 28 U.S.C. § 2253(c)(2); Miller-El v. Cockrell, 537 U.S. 322, 338

(2003) (in order to satisfy § 2253(c), a petitioner must demonstrate 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) (when relief is denied on procedural grounds, a petitioner must establish both that the dispositive procedural ruling is debatable and that the petition states a debatable claim of the denial of a constitutional right).

Signed: July 29, 2013



Frank D. Whitney
Chief United States District Judge

