

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KEITH W. DEWITT,

Defendant.

:

: Case No. 3:98cr081
and 3:10cv153

:

JUDGE WALTER HERBERT RICE

:

DECISION AND ENTRY ADOPTING INITIAL (DOC. #451) AND SUPPLEMENTAL (DOC. #453) REPORTS AND RECOMMENDATIONS OF UNITED STATES MAGISTRATE JUDGE; DEFENDANT'S OBJECTIONS TO SAID JUDICIAL FILINGS (DOC. #452 AND #454) OVERRULED; DEFENDANT'S MOTION TO VACATE JUDGMENT, PURSUANT TO FED. R. CIV. P. 59(e) (DOC. #449) OVERRULED; REQUEST TO REMOVE MAGISTRATE JUDGE OVERRULED; ANTICIPATED MOTION FOR CERTIFICATE OF APPEALABILITY AND FOR LEAVE TO APPEAL *IN FORMA PAUPERIS* DENIED; TERMINATION ENTRY

Pursuant to the reasoning and citations of authority set forth by the United States Magistrate Judge, in his Initial (Doc. #451) and Supplemental (Doc. #453) Reports and Recommendations, as well as upon a thorough *de novo* review of this Court's file and the applicable law, said Reports and Recommendations are adopted in their entirety. The Defendant's Objections to said judicial filings (Doc. #452 and #454) are overruled. Judgment will be ordered entered in favor of the Government and against Defendant herein, overruling Defendant's Motion to Vacate Judgment,

filed pursuant to Fed. R. Civ. P. 59(e) (Doc. #449).

This Court denies Defendant's request to remove the Magistrate Judge from any further proceedings in this case, given that the Defendant has given no legally cognizable reasons for the action requested of this Court.

In ruling as aforesaid, the Court makes the following, non-exclusive, observations:

1. As an aside, prior to sentencing in this prosecution, Petitioner filed a motion, requesting that this Court permit him to withdraw his guilty pleas. After having conducted a two-day, pre-sentencing oral and evidentiary hearing on the quality of the representation provided by his trial counsel, the Court rejected Defendant's request. In rejecting that request, this Court expressly found that his trial counsel had not neglected to provide effective assistance of counsel. In his Objections (Doc. #452) and Supplemental Objections (Doc. #454), the Petitioner has not provided an explanation as to why this Court's findings in that regard were erroneous or no longer controlling.

Given that the Court's opinion herein would not be debatable among jurists of reason and, further, given that any appeal from this Court's decision would be objectively frivolous, this Court denies both a certificate of appealability and any anticipated motion for leave to appeal *in forma pauperis*.

The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

September 20, 2011



WALTER HERBERT RICE
UNITED STATES DISTRICT JUDGE

Copies to:

Keith Dewitt, *Pro Se*
Counsel of record