

IN THE UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF TEXAS  
 DALLAS DIVISION

<b>VERNON COOKS, JR.,</b>	§	
	§	
Movant,	§	
v.	§	Civil Action No. <b>3:09-CV-1487-L</b>
	§	No. 3:06-CR-0085-L(1)
<b>UNITED STATES OF AMERICA,</b>	§	
	§	
Respondent.	§	

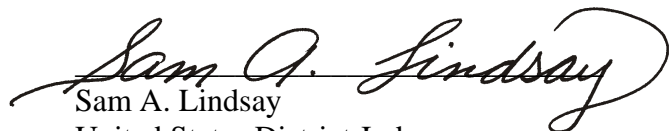
**ORDER**

Before the court are the Findings, Conclusions and Recommendation of the United States Magistrate Judge, filed August 12, 2009. No objections were filed.

Movant Vernon Cooks, Jr. filed a motion pursuant to Rules 60(b)(1)(2)(3) and 33 of the Federal Rules of Civil Procedure on July 7, 2009. On August 7, 2009, The court construed the motion as a motion pursuant to 28 U.S.C. § 2255 to correct, vacate, or set aside his sentence and ordered the clerk of the court to open it as a civil case. Movant contends that his conviction was the result of prosecutorial misconduct. The magistrate judge found that the motion should be denied without prejudice because his direct appeal is pending.

The court has reviewed the magistrate judge’s report, the record, and the applicable law, and determines that the findings are correct and are therefore **accepted** as those of the court. The court therefore **denies without prejudice** Cook’s motion.

**It is so ordered** this 31st day of August, 2009.

  
 Sam A. Lindsay  
 United States District Judge