

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

UNITED STATES OF AMERICA,
Plaintiff

v.

LOREN BEDWARD,
Defendant

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File No. 1:05-cr-00006-jgm-1

ORDER

The Magistrate Judge's Report and Recommendation was filed September 16, 2010. (Doc. 44.) After de novo review and absent objection, the Report and Recommendation is AFFIRMED, APPROVED and ADOPTED.¹ See 28 U.S.C. § 636(b)(1). Loren Bedward's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 (Doc. 37) is DENIED. An Amended Judgment shall be issued to reflect the correct description of the offense as "prohibited person in possession of a firearm" rather than "felon in possession of a firearm." This action shall not trigger a renewed opportunity to file a notice of appeal. Farkas v. Rumore, 101 F.3d 20, 22 (2d Cir. 1996); United States v. Lewis, 921 F.2d 563, 565 (5th Cir. 1991).

Pursuant to Fed. R. App. P. 22(b), the Court DENIES petitioner a certificate of appealability ("COA") because the petitioner failed to make a substantial showing of a denial of a constitutional right. See 28 U.S.C. § 2253(c)(2). In addition, because the petition has been dismissed on procedural grounds, the petitioner cannot be issued a

¹ The Court notes that in 2006, under the Federal Rules of Criminal Procedure, a direct appeal was to be filed within 10 days of the entry of judgment, not 14 days. Accordingly, the parenthetical reference to 14 days on pg. 5 of the Report and Recommendation is corrected. See Fed. R. Crim. P. 4(b)(1)(A) (2009 amend.).

COA due to his failure to demonstrate that “jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” See Slack v. McDaniel, 529 U.S. 473 (2000).

It is further certified that any appeal taken in forma pauperis from this Order would not be taken in good faith because such an appeal would be frivolous. See 28 U.S.C. § 1915(a).

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 26th day of October, 2010.

/s/ J. Garvan Murtha

Honorable J. Garvan Murtha
Senior United States District Judge