

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT**

UNITED STATES OF AMERICA

v.

ROYAN WINT

:
:
:
:
:

File No. 1:12-cr-00085-jgm-1

ORDER

The Magistrate Judge's Report and Recommendation was filed February 3, 2017. (Doc. 185.) Upon de novo review and over objection (Doc. 187), the Report and Recommendation is AFFIRMED, APPROVED, and ADOPTED. See 28 U.S.C. § 636(b)(1). Accordingly, Wint's motion under 28 U.S.C. § 2255 to vacate, set aside, or correct his conviction and sentence (Doc. 172) is DENIED and his motion to erase and/or nullify conviction or alternatively, revise and revoke sentence (Doc. 183) is DENIED. Further, a certificate of appealability under 28 U.S.C. § 2253(c) and Fed. R. App. P. 22(b) is also DENIED because Wint has failed to make a substantial showing for denial of a federal right, and because his grounds for relief do not present issues that are debatable among jurists of reason, which could have been resolved differently, or which deserve further proceedings. Slack v. McDaniel, 529 U.S. 473, 484 (2000).

Royan Wint's motion to reopen suppression hearing, reconsider the denial order and request for Franks hearing (Doc. 176) is untimely as it was filed after his conviction was affirmed and is a rehashing of arguments previously made to this Court and rejected, see Doc. 147, and that either were or could have been raised on direct appeal. Accordingly, it is DENIED on the merits. Wint also filed a motion for ruling on previously submitted motions, including his § 2255 motion and the motion to reopen the suppression hearing. (Doc. 179.) The motion for ruling is now DENIED as moot as those motions have been ruled upon.

In December 2016 and March 2017, Wint filed motions to re-open case, or in the alternative, reconsideration for a new trial. (Docs. 182, 188.) The motions are substantially similar. The Court has already entertained and rejected motions for a new trial and for judgment on acquittal, or in the alternative, for a new trial, see Docs. 116, 139, 147, the Second Circuit Court of Appeals has affirmed Wint's conviction, United States v. Young, 654 F. App'x 32 (2d Cir. 2016), and the Court has now denied Wint's § 2255 motion to vacate, set aside, or correct his conviction and sentence. Accordingly, Wint's motions (Docs. 182, 188) are DENIED on the merits.

It is 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)(3).

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 9th day of May, 2017.

/s/ J. Garvan Murtha
Honorable J. Garvan Murtha
United States District Judge