

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

VAUGHN RAMONE GROVE

Movant,

v.

Civil Action No. 2:16-5828
(Criminal No. 2:09-00263)

UNITED STATES OF AMERICA

Respondent.

MEMORANDUM OPINION AND ORDER

Pending is the movant's motion pursuant to 28 U.S.C. § 2255 to correct sentence, filed on June 28, 2016, and the movant's motion to voluntarily dismiss his § 2255 motion, filed on April 21, 2017.

On May 18, 2010, the movant pled guilty to the felony offense of possession with intent to distribute a quantity of heroin in violation of 18 U.S.C. § 841(a)(1). He was sentenced on September 10, 2010, to a 151-month term, to be followed by a three-year term of supervised release. He appealed his conviction and sentence. On June 17, 2011, the Judgment was affirmed by the United States Court of Appeals for the Fourth Circuit. The Judgment thereafter became final on July 11, 2016.

On April 10, 2012, the movant filed his first 28 U.S.C. § 2255 motion, alleging that his counsel was ineffective on the basis

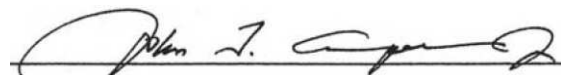
that his prior conviction for attempted assault on a prison employee should not have been considered as a predicate "crime of violence" for the career offender enhancement that was imposed at his sentencing. On January 30, 2013, the magistrate judge recommended that the movant's motion be denied. On March 14, 2013, the court adopted the magistrate judge's findings and denied the § 2255 motion.

On June 28, 2016, the Fourth Circuit granted movant's motion to file a second and successive § 2255 motion, which he filed, as first noted above, on June 28, 2016. On April 31, 2017, movant filed a motion to voluntarily dismiss his second § 2255 motion that is the subject of this case.

The court, grants the motion to voluntarily dismiss and ORDERS that movant's § 2255 motion be, and it hereby is, dismissed.

The Clerk is directed to forward copies of this written opinion and order to the movant, all counsel of record and the United States Magistrate Judge.

DATED: June 8, 2017



John T. Copenhaver, Jr.
United States District Judge