

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

BERNARD KEITH MARTIN

Petitioner,

v.

CIVIL ACTION NO. 2:16-cv-09899
(Criminal No. 2:08-cr-00230)

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION AND ORDER

This action was referred to United States Magistrate Judge Omar J. Aboulhosn for submission to this court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). On March 27, 2019, Magistrate Judge Aboulhosn submitted his Proposed Findings of Fact and Recommendation [ECF No. 158] (“PF&R”), recommending that the court deny Defendant’s Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence. The time to object has expired, and no objections have been filed.

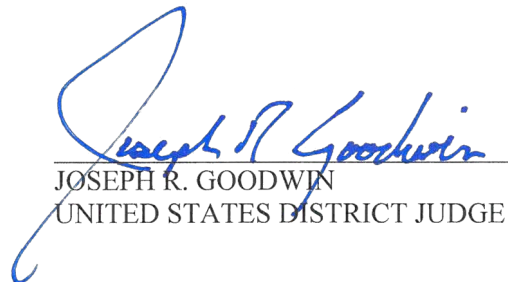
Accordingly, the court **ADOPTS** and **INCORPORATES** herein the PF&R. For the reasons stated therein, the defendant’s Motion [ECF No. 154] is **DENIED**, and this civil action is **DISMISSED** from the docket of this court.

Additionally, the court has considered whether to grant a certificate of appealability. *See* 28 U.S.C. § 2253(c). A certificate will not be granted unless there

is “a substantial showing of the denial of a constitutional right.” *Id.* § 2253(c)(2). The standard is satisfied only upon a showing that reasonable jurists would find that any assessment of the constitutional claims by this court is debatable or wrong and that any dispositive procedural ruling is likewise debatable. *Miller-El v. Cockrell*, 537 U.S. 322, 336–38 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Rose v. Lee*, 252 F.3d 676, 683–84 (4th Cir. 2001). The court concludes that the governing standard is not satisfied in this instance. Accordingly, the court **DENIES** a certificate of appealability.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record, any unrepresented party, and the Magistrate Judge.

ENTER: May 7, 2019



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE