

UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 16-CV-22131-HUCK

BIVEN HUDSON,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION


THIS MATTER came before the Court upon Movant's Motion to Vacate pursuant to 28 U.S.C. § 2255 ("Motion"), entered on June 10, 2016. On February 20, 2018, Magistrate Judge Patrick A. White issued a Report and Recommendation [D.E. 35], recommending that the Motion be denied. On March 6, 2018, the Government filed its Objections [D.E. 37]. On April 10, 2018, Movant filed its First Objections to Report of Magistrate Judge, [D.E. 40], to which the Government filed a Response on April 16, 2018. [D.E. 43]. The Court has independently reviewed the Report and Recommendation, Movant's objections,¹ the Government's response, and the record. Accordingly, it is hereby

ORDERED AND ADJUDGED that the findings of fact and conclusions of law in Judge White's Report and Recommendation are ADOPTED, and Movant's and the Government's objections thereto are OVERRULED. Movant's Motion is therefore DENIED, the case is

¹ With respect to the Movant's challenge to his sentence under the ACCA, the parties should note, as does the Report on page 5, that Movant's sentencing guidelines (262 to 327 months) exceeded the ACCA mandatory 15-year-minimum sentence, and that the Court sentenced Movant to 200 months in prison, a sentence below the low end of the advisory sentencing guidelines of 262 months but above the 15-year ACCA minimum-mandatory sentence.

DISMISSED, and the clerk is directed to CLOSE the case. It is further ORDERED that a Certificate of Appealability shall not issue.

DONE and ORDERED in Chambers, Miami, Florida on this 23rd day of April, 2018.



PAUL C. HUCK
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel of Record