

UNPUBLISHED**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 17-7018

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

WILLIAM DEAN CHAPMAN,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Gerald Bruce Lee, District Judge. (1:13-cr-00233-CHM-1; 1:15-cv-01683-GBL)

Submitted: December 19, 2017

Decided: January 10, 2018

Before WILKINSON and NIEMEYER, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

William Dean Chapman, Appellant Pro Se. Alison M. Zitron, Special Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:-

William Dean Chapman seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2255 (2012) motion. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(B) (2012). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2012). When the district court denies relief on the merits, a prisoner satisfies this standard by demonstrating that reasonable jurists would find that the district court's assessment of the constitutional claims is debatable or wrong. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *see Miller-El v. Cockrell*, 537 U.S. 322, 336-38 (2003). When the district court denies relief on procedural grounds, the prisoner must demonstrate both that the dispositive procedural ruling is debatable, and that the motion states a debatable claim of the denial of a constitutional right. *Slack*, 529 U.S. at 484-85.

We have independently reviewed the record and conclude that Chapman has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

WILLIAM DEAN CHAPMAN,)
Petitioner,) Criminal Case No. 1:13-cr-233
v.) Civil Case No. 1:15-cv-1683
UNITED STATES OF AMERICA,)
Respondent.)

MEMORANDUM OPINION AND ORDER

THIS MATTER is before the Court on Petitioner William Dean Chapman's ("Petitioner") Motion Under 28 U.S.C § 2255 to Vacate, Set Aside, or Correct Sentence (Dkt. No. 68). Petitioner challenges his 2013 conviction resulting from him pleading guilty to one count of wire fraud in violation of 18 U.S.C. § 1343.

There are four issues before the Court. The first issue is whether Petitioner received ineffective counsel based upon the following alleged reasons: (1) Petitioner's Federal Public Defender Whitney Minter ("Ms. Minter") failed to investigate new evidence and conduct interviews of certain witnesses; (2) Ms. Minter did not properly evaluate Petitioner's opportunities for trial; and (3) Petitioner's private counsel, Pleasant Brodnax ("Mr. Brodnax"), belatedly submitted Petitioner's motion to withdraw, refused to represent him on his motion, and did not inform Petitioner that he would have to present his own argument in court.

The second issue is whether the Government engaged in prosecutorial misconduct by: (1) having Petitioner sign a statement of facts the Government knew to be false; (2) redacting potentially exculpatory evidence; and (3) withholding evidence from Petitioner in violation of *Brady v. Maryland*, 373 U.S. 83 (1963).

The third issue is whether this Court abused its discretion by: (1) drawing invalid conclusions; and (2) failing to warn and inquire regarding Petitioner's decision to proceed *pro se* for purposes of the motion to withdraw his plea.

The fourth issue is whether Petitioner's argument of actual innocence is sufficient to allow a withdrawal of his guilty plea.

The Court denies Petitioner's § 2255 motion because he has failed to show by a preponderance of the evidence that his sentence was in violation of the Constitution or laws of the United States for the following four reasons. First, Petitioner stated under oath that he was satisfied with counsel's representation. Second, Petitioner fails to provide sufficient evidence that his attorneys' performances fell below an objective standard of reasonableness. Third, the evidence that Petitioner alleges was withheld from him is not material to his defense and does not prove his innocence. Fourth, Petitioner's motion re-asserts arguments that this Court and the Fourth Circuit have already considered and rejected.

I. BACKGROUND

Petitioner was the owner of Alexander Capital Markets, LLC ("ACM"). (Dkt. No. 30, ¶ 2). ACM provided financial services, whereby ACM loaned funds to customers who in turn, provided ACM with securities as collateral. *Id.* at 3. Under the terms of the loan agreements, ACM was entitled to sell the securities upon receipt, but customers were assured that ACM was engaged in hedging activities that protected their securities from adverse markets, and guaranteed that at the end of the contract period, ACM would be able to return the full value of the customers' securities or the cash equivalent. *Id.*

According to Petitioner's Statement of Facts, in early 2007 ACM did not have sufficient funds to cover its outstanding liabilities. (Dkt. No. 30, ¶ 9). Through 2009, Petitioner continued

to accept new clients without disclosing to them that ACM was experiencing financial troubles and lacked the ability to return securities or equivalent cash profits at the end of contract periods.

Id. ¶ 10.

On March 1, 2013, the Government filed a criminal complaint against Petitioner, charging him with wire fraud under 18 U.S.C. § 1343. (Dkt. No. 1). On March 20, 2013, a warrant was executed and Petitioner was arrested. (Dkt. No. 8).

On May 23, 2013, Petitioner entered into a plea agreement in which he agreed to waive indictment and plead guilty to one count of wire fraud in violation of 18 U.S.C. § 1343. (Dkt. No. 29 ¶ 1). Pursuant to the terms of the plea agreement, Petitioner signed a Statement of Facts (Dkt. No. 30) which he stipulated would have proven his guilt beyond a reasonable doubt at trial. *Id.* at 12. Additionally, under the terms of the plea, Petitioner asserted that his attorney, Whitney Minter, had rendered effective assistance, and that he had carefully reviewed the terms of the plea agreement with his attorney. (Dkt. No. 29 at 2, 16).

On December 2, 2013, Petitioner filed a *pro se* Motion to Withdraw Guilty Plea. (Dkt. No. 46). In this motion, Petitioner contended that he is actually innocent and that he was “coerced by both the prosecution and [his] own counsel and under tremendous pressure and duress to make the decision [to plead guilty] in an unreasonably short period of time and without relevant facts and evidence.” (Dkt. No. 46-1 at 1). The Court denied Petitioner’s motion and sentenced him to a term of imprisonment of 144 months on December 11, 2013.

Petitioner filed a Notice of Appeal to the Fourth Circuit on December 16, 2013, contending: (1) that he did not knowingly and voluntarily waive his right to counsel for the purpose of his motion to withdraw his guilty plea; (2) that the district court abused its discretion in denying the motion to withdraw the guilty plea; and (3) that the Court’s findings under the

Sentencing Guidelines were erroneous. The Fourth Circuit denied the appeal on July 11, 2014, finding that Petitioner's "waiver of his right to counsel was knowing and voluntary." (Dkt. No. 63 at 3). The Fourth Circuit further held that "the district court did not abuse its discretion in denying [Petitioner's Motion to Withdraw Guilty Plea]." *Id.* at 4.

On December 22, 2015, Petitioner filed a Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence. (Dkt. No. 68).¹ In his § 2255 motion, Petitioner argues that his conviction should be vacated and that he should be allowed to go to trial. In support of this argument, Petitioner alleges ineffective assistance of counsel, prosecutorial misconduct, abuse of judicial discretion, and actual innocence. On February 22, 2017, the Government responded to Petitioner's § 2255 Motion, arguing that it should be denied because: (1) it is untimely; (2) it repeats arguments properly rejected in prior proceedings; and (3) it makes unsubstantiated claims that are without merit. (Dkt. No. 82).

II. DISCUSSION

A. Standard of Review

To state a claim for relief under 28 U.S.C. § 2255, a petitioner must show that one of the following occurred: (1) that his or her sentence was imposed in violation of the Constitution or laws of the United States; (2) that the court was without jurisdiction to impose such a sentence; (3) that the sentence was in excess of the maximum authorized by law; or (4) that the sentence is otherwise subject to collateral attack. 28 U.S.C. § 2255(a). When filing a § 2255 motion to vacate, set aside, or correct a sentence, a petitioner bears the burden of proving their grounds for collateral attack by a preponderance of the evidence. *Miller v. United States*, 261 F.2d 546, 547 (4th Cir. 1958). If the motion, when viewed against the record, shows that the petitioner is

¹ On page 93 of Petitioner's § 2255 Motion, Petitioner also listed in cursory fashion that he was filing a Motion to Proceed in Forma Pauperis, a Motion to Appoint Counsel, a Motion for Discovery, and a Motion to Seal Discovery from the Government.

entitled to no relief, the court may summarily deny the motion. *Raines v. United States*, 423 F.2d 526, 529 (4th Cir. 1970).

Relief under 28 U.S.C. § 2255 is designed to remedy fundamental constitutional, jurisdictional, or other errors, and is therefore reserved for situations in which failing to grant relief would otherwise “inherently result [] in a complete miscarriage of justice.” *United States v. Addonizio*, 442 U.S. 178, 185 (1979) (quoting *Hill v. United States*, 368 U.S. 424, 428 (1962)). A motion under § 2255 is not a substitute for an appeal. *Rosario v. United States*, 164 F.3d 729, 732 (2d Cir. 1998); *United States v. Pollard*, 959 F.2d 1011, 1020 (D.C. Cir. 1992).

B. Analysis

The Court denies Petitioner’s § 2255 motion, first, because the motion is untimely and, second, because even if Petitioner had timely filed the motion, none of the grounds upon which he relies warrant vacating his sentence.

1. Timeliness of Petitioner’s Motion

The Court denies Petitioner’s § 2255 motion because Petitioner did not file the motion within the one-year limitation period and has not offered sufficient grounds to equitably toll the period.

Under a § 2255 motion, a one-year limitations period runs from “the date on which the judgment of conviction becomes final.” 28 U.S.C. § 2255(f)(1). A judgment of conviction becomes final for § 2255 purposes when the Supreme Court denies a petition for certiorari. *Clay v. United States*, 537 U.S. 522, 527 (2003). In this case, the Supreme Court denied the petition for certiorari on December 15, 2014. *Chapman v. United States*, 135 S. Ct. 882 (2014). Petitioner did not file his motion under § 2255 until December 17, 2015, two days after the one-year limitation period had expired. (See Dkt. No. 68 at 8).

When a limitation period has run out, the petitioner bears the burden of demonstrating that he is entitled to equitable tolling by showing “(1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstances stood in his way.” *Lawrence v. Florida*, 549 U.S. 327, 336 (2007). To show that extraordinary circumstances prevented him from filing, the petitioner must prove “(1) extraordinary circumstances, (2) beyond his control or external to his own conduct, (3) that prevented him from filing on time.” *Rouse v. Lee*, 339 F.3d 238, 246 (4th Cir. 2003).

Here, Petitioner states that his attorney informed him that the Supreme Court denied his petition for certiorari on December 18, 2014, and that the petition was completed a week prior to him submitting it, but he held on to it “in the event [he] wanted to make revisions . . .” (Dkt. No. 83 at 1). However, under *Lawrence*, “attorney miscalculation” does not warrant equitable tolling. 549 U.S. at 336 (rejecting petitioner’s argument that counsel’s mistake in miscalculating the limitations period entitles him to equitable tolling because, “[i]f credited, this argument would essentially equitably toll limitations periods for every person whose attorney missed a deadline”). Additionally, Petitioner’s argument that his motion should be equitably tolled because his filing was only two days past the due date is refuted by *Rouse*, where the Fourth Circuit denied habeas corpus relief because the petitioner filed his petition three days after the one year limitation period had run. 339 F.3d at 248–49.

In sum, the Court denies Petitioner’s motion because the motion is untimely. For the reasons stated below, even if Petitioner had timely filed his § 2255 motion, however, all other grounds upon which he relies do not warrant vacating or modifying his sentence.

2. *Ineffective Assistance of Counsel*

The Court denies Petitioner's § 2255 motion on the grounds of ineffective assistance of counsel because Petitioner has not met the burden of proof by a preponderance of the evidence under the two-prong test set forth in *Strickland v. Washington*, 466 U.S. 668 (1984).

To prevail on a § 2255 motion on the grounds of ineffective assistance of counsel, a petitioner must show that (1) counsel's performance was deficient, and (2) counsel's deficient performance prejudiced the defense. *Id.* To show that counsel's performance was deficient, a petitioner must show that counsel's performance "fell below an objective standard of reasonableness." *Id.* at 688. The court must endeavor to eliminate the distorting effects of hindsight. *Id.* Thus, the court must "evaluate the conduct from the counsel's perspective at the time" and "indulge in a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance." *Id.* at 699. Even if the court finds that counsel made unprofessional errors, a petitioner must also demonstrate "that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Id.* at 694. The *Strickland* Court described reasonable probability as "a probability sufficient to undermine confidence in the outcome." *Id.* However, "there is no reason for a court deciding an ineffective assistance claim to . . . even address both components of the inquiry if the defendant makes an insufficient showing of one." *Id.* at 697.

First, Petitioner argues that Ms. Minter's alleged failure to investigate materials he disclosed to her and her decision not to interview his employee, Michael Arko ("Mr. Arko"), constitutes sufficient grounds to vacate his plea, vacate his sentence, and allow him to go to trial. This argument, however, directly conflicts with Petitioner's statements made under oath at his Rule 11 hearing when he stated that he was satisfied with the representation his attorneys had

given him. (Dkt. No. 48 at 4, ¶¶ 7-9). The Court gives these statements a great deal of consideration because “in the absence of extraordinary circumstances, the truth of sworn statements made during a Rule 11 colloquy is conclusively established, and a district court should, without holding an evidentiary hearing, dismiss any § 2255 motion that necessarily relies on allegations that contradict the sworn statements.” *United States v. Lemaster*, 403 F.3d 216, 221 (4th Cir. 2005).

The Court finds that Ms. Minter’s decisions to not investigate materials provided by Petitioner and to not interview Mr. Arko do not establish circumstances extraordinary enough to apply an exception to the standard set forth in *Lemaster*. Ms. Minter’s decision not to fully investigate materials provided by Petitioner does not constitute extraordinary circumstances because “*Strickland* does not impose a constitutional requirement that counsel uncover every scrap of evidence that could conceivably help their client.” *United States v. Dyess*, 730 F.3d 354, 362 (4th Cir. 2013) (quoting *Green v. French*, 143 F.3d 865, 892 (4th Cir. 1998)). Furthermore, in a signed affidavit, Ms. Minter states that “[a]ll information presented by Mr. Chapman in defense of his case was reviewed by [her] or another member of the Office of the Federal Public Defender.” (Dkt. No. 79-1 at 2 ¶ 7) (emphasis added).

Ms. Minter’s decision to not interview Mr. Arko also falls well below the level of establishing extraordinary circumstances because Ms. Minter was aware that Mr. Arko was cooperating with the Government. In following *Strickland*, and eliminating the distorting effects of hindsight, the Court finds that Ms. Minter’s decision to not interview a witness she knew to be cooperating with the Government was a perfectly sound one, and does not create circumstances so extraordinary to overcome Petitioner’s statements made under oath at his Rule 11 hearing.

Second, Petitioner argues that his guilty plea should be vacated because his private counsel, Mr. Brodnax, belatedly submitted his motion to withdraw, refused to represent Petitioner on that motion, and did not inform Petitioner that he would be presenting this argument in court. Again, this argument contradicts statements Petitioner made under oath. At his sentencing hearing before this Court, Petitioner stated that he understood that he was giving away his right to have Mr. Brodnax represent him, and that he was making a judgment on his own to go forward with his motion to withdraw. (Dkt. No. 61 at 6).

Furthermore, the Court does not find that Petitioner's argument demonstrates that Mr. Brodnax's assistance "fell below an objective standard of reasonableness." *Strickland*, 466 U.S. at 688. In a signed affidavit, Mr. Brodnax stated that he "advised Mr. Chapman that [he] believed any attempt to withdraw his plea would be denied and might result in his receiving a harsher sentence as he could be denied acceptance of responsibility" and that he "could not file a motion to withdraw [the] guilty plea as there was no good faith basis to do so . . ." (Dkt. No. 80 at ¶¶ 5–6). As previously stated, a court must "evaluate the conduct from counsel's perspective at the time" and "indulge a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance . . ." *Strickland*, 466 U.S. at 699. In light of this standard, the Court finds that Mr. Brodnax's belief that the motion to withdraw Petitioner's plea was not in his client's best interest was a reasonable one and that the argument for withdrawal was without merit. This is evinced by the fact that neither this Court nor the Fourth Circuit were persuaded by Petitioner's argument regarding his motion to withdraw.

3. Prosecutorial Misconduct

The Court denies Petitioner's § 2255 motion on the grounds of prosecutorial misconduct because Petitioner failed to show that he was unfairly prejudiced by the Government's actions,

and has not shown that there is a reasonable probability he would have been found not guilty in the absence of those actions.

First, Petitioner alleges that the Government engaged in prosecutorial misconduct by withholding certain brokerage statements in violation of *Brady v. Maryland*, 373 U.S. 83 (1963). To demonstrate prosecutorial misconduct under *Brady*, the petitioner bears the burden “to show that the undisclosed evidence was (1) favorable to him either because it is exculpatory, or because it is impeaching; (2) material to the defense, *i.e.*, ‘prejudice must have ensued’; and (3) that the prosecution had materials and failed to disclose them.” *United States v. Wilson*, 624 F.3d 640, 661 (4th Cir. 2010) (quoting *United States v. Stokes*, 261 F.3d 496, 502 (4th Cir. 2001)). Evidence is material where there is a reasonable probability of a different result at trial had the evidence been disclosed. *Moseley v. Branker*, 550 F.3d 312, 318 (4th Cir. 2008).

The Court does not find Petitioner’s allegation sufficient to constitute a violation under *Brady* because the brokerage statements are not material to Petitioner’s defense. When addressing the brokerage statements at Petitioner’s sentencing hearing, this Court explained that:

[T]he government’s submission demonstrates that even the submission that the defendant has made in support of his claim of actual innocence is insufficient because it does not answer many of the questions that are raised by the government in their submission about whether or not he had the right to just take his money and use it for his own personal expenses, whether he told his clients he was maintaining some kind of reserve and what a reserve was, and did he actually have enough money to pay back these individuals who had borrowed money under the terms of the agreement with ACM.

(Dkt. No. 61 at 26).

The brokerage statements cannot be seen as material, because given this Court’s determination at the sentencing hearing, there is not a “reasonable probability” that these statements would have produced a different result at trial had they been disclosed. *See Moseley*, 550 F.3d at 318; *see also Loiseau v. Clarke*, No. 3:12-cv-580, 2013 WL 3894001, at *3 (E.D. Va. July 26, 2013).

Second, Petitioner alleges that the Government engaged in prosecutorial misconduct by allowing him to sign the Statement of Facts while in possession of Mr. Arko's SEC testimony. In order to "prevail on a claim of prosecutorial misconduct, a defendant must show: (1) the prosecutor's conduct was improper; and (2) the conduct prejudicially affected his substantial rights so as to deprive him of a fair proceeding." *United States v. Horton*, 72 F. App'x 949, 950 (4th Cir. 2003) (citing *United States v. Golding*, 168 F.3d 700, 702 (4th Cir. 1999)).

Petitioner contends that Mr. Arko's testimony disputes the Statement of Facts and proves his actual innocence, and that he was unfairly prejudiced because the Government did not disclose it to him prior to him pleading guilty. (Dkt. No. 68 at 12, 13). The Court is unconvinced by this argument, however, because the Arko testimony simply does not undercut Petitioner's admissions in the Statement of Facts. Mr. Arko's testimony to the SEC does not offer any evidence that refutes Petitioner's admissions that he immediately sold clients' securities upon receipt and misused proceeds for personal expenses (Dkt. No. 30 ¶ 3); used funds from new client transactions to repay maturing client obligations (*Id.* ¶ 8); and how ACM failed to disclose its financial difficulties to new or existing clients (*Id.* ¶ 10). The Court finds that nothing contained in Mr. Arko's testimony constitutes material or exculpatory evidence because there is not a reasonable probability that the testimony would have shown Petitioner's innocence were it introduced at trial. Accordingly, Petitioner's rights were not prejudicially affected so as to deprive him of a fair proceeding.

Third, Petitioner accuses the government of redacting evidence in an effort "to deceive the court with an allegation which they knew to be false." (Dkt. No. 68 at 15). Petitioner is unable to produce any evidence to support this accusation, and it appears to be purely speculative. Because Petitioner has failed to show that the Government engaged in prosecutorial

misconduct for any of the three reasons asserted, the Court denies Petitioner's motion with respect to that ground.

4. Abuse of Judicial Discretion

The Court denies Petitioner's § 2255 motion on the grounds of judicial discretion because the Fourth Circuit already held that this Court did not abuse its discretion in denying Petitioner's motion to withdraw his guilty plea. *United States v. Chapman*, 578 F. App'x 223 (4th Cir. 2014).

First, Petitioner argues that the Court made invalid conclusions, resulting from a general lack of inquiry during the hearing on his motion to withdraw his guilty plea. Petitioner contends that "these invalid conclusions lead the judge down the direct path of denying the plea, which never would have happened had he conducted a proper inquiry." (Dkt. No. 68 at 80). The Fourth Circuit has already looked into this matter however, and "[has] reviewed the record, the plea colloquy and the district court's reasons for denying Chapman's motion." *Chapman*, 223 F. App'x at 225. Upon review of this record, the Fourth Circuit "conclude[d] that the district court did not abuse its discretion in denying the motion." *Id.*

Second, Petitioner argues that the Court abused its discretion by failing to warn him "of the dangers of self-representation." (Dkt. No. 68 at 91). While Petitioner concedes that this issue was already discussed on direct appeal, he raises the new argument that this Court "had a duty to inquire into the reasons behind the awkward circumstance [he] was in of standing up defending [himself] while [his] attorney sat silently gazing up into space . . ." *Id.* The Court is not convinced by this argument because when asked if he understood that he was giving away his right to have counsel represent him and if he was "making a judgment on [his] own . . . to go forward" Petitioner responded in the affirmative. (Dkt. No. 61 at 6). The Court did not inquire

further so as not to open a discussion of privileged communications between Petitioner and his counsel. The Court's decision not to inquire further was affirmed by the Fourth Circuit's holding that "the district court did not abuse its discretion in denying the motion." (Dkt. No. 63 at 4).

5. Claim of Actual Innocence

The Court denies Petitioner's § 2255 motion on the grounds of actual innocence because an argument of actual innocence only serves as a gateway to procedural bars, and furthermore, Petitioner has not overcome the strict threshold requirement for making a showing of actual innocence.

As Petitioner concedes (Dkt. No. 68 at 54), an argument of actual innocence is not a ground for relief in a § 2255 petition; rather, it serves as an exception to procedural bars or the expiration of the statute of limitations. *McQuiggin v. Perkins*, 133 S. Ct. 1924, 1928 (2013). Nevertheless, Petitioner argues that he is entitled to relief under § 2255 on the grounds of actual innocence.

When making a plea of actual innocence, "a petitioner does not meet the threshold requirement unless he persuades the district court that, in light of the *new* evidence, no juror, acting reasonably, would have voted to find him guilty beyond a reasonable doubt." *Id.* at 1927 (quoting *Schlup v. Delo*, 513 U.S. 298, 329 (1995)) (emphasis added).

In his motion, the only *new* evidence Petitioner puts forward in support of his actual innocence is Mr. Arko's SEC testimony. As the Court has already determined, Mr. Arko's testimony to the SEC does not offer any evidence that refutes Petitioner's admissions contained in the Statement of Facts. Given this determination, Petitioner has not overcome the strict threshold requirement for making a showing of actual innocence.

III. CONCLUSION

The Court denies Petitioner's § 2555 motion because Petitioner did not file his petition within the one year limitations period and has not offered sufficient grounds to equitably toll the period. Even if Petitioner had timely filed the motion, none of the grounds upon which he relies warrant vacating or modifying his sentence.

For the foregoing reasons, it is hereby

ORDERED that Petitioner William Dean Chapman's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence (Dkt. No. 68) is **DENIED**; and it is further
ORDERED that Petitioner's Motions to Proceed in Forma Pauperis, Motion to Appoint Counsel, Motion for Discovery, and Motion to Seal Discovery from the Government are **DENIED AS MOOT**.

The Clerk is directed to forward a copy of this Order to Petitioner and counsel of record.

IT IS SO ORDERED.

ENTERED this 28th day of July, 2017.

Alexandria, Virginia

/s/
Gerald Bruce Lee
United States District Judge

FILED: March 28, 2018

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-7018
(1:13-cr-00233-CHM-1)
(1:15-cv-01683-GBL)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

WILLIAM DEAN CHAPMAN

Defendant - Appellant

M A N D A T E

The judgment of this court, entered January 10, 2018, takes effect today.

This constitutes the formal mandate of this court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure.

/s/Patricia S. Connor, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

WILLIAM DEAN CHAPMAN,)
Petitioner,)
v.) Criminal Case No. 1:13-cr-233
UNITED STATES OF AMERICA,) Civil Action No. 1:15-cv-1683
Respondent.)

ORDER

This matter comes before the Court on Petitioner's Motion for Reconsideration (Dkt. 98) and Motion to Supplement with Newly Discovered Evidence (Dkt. 105).

Petitioner seeks reconsideration of an order of this Court dated July 28, 2017 which denied his Motion to Vacate pursuant to 28 U.S.C. § 2255. The Court is of the opinion that its prior order denying the motion to vacate was correct for the reasons stated therein. Thus, the motion to supplement is mooted. For these reasons, it is hereby

ORDERED that Plaintiff's Motions to Reconsider (Dkt. 98) and Supplement with Newly Discovered Evidence (Dkt. 105) are DENIED.

Claude M. Hilton
CLAUDE M. HILTON
UNITED STATES DISTRICT JUDGE

Alexandria, Virginia
April 5, 2019

FILED: March 20, 2018

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-7018
(1:13-cr-00233-CHM-1)
(1:15-cv-01683-GBL)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

WILLIAM DEAN CHAPMAN

Defendant - Appellant

O R D E R

The court denies the petition for rehearing and rehearing en banc, and denies the motion for leave to supplement the petition with new evidence. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

Entered at the direction of the panel: Judge Wilkinson, Judge Niemeyer and Senior Judge Hamilton.

For the Court

/s/ Patricia S. Connor, Clerk