UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

CALEB LEE COLE, **Petitioner,** **v.** **UNITED STATES OF AMERICA,** **Respondent.**	**1:11-CR-0026-LJO-10** **MEMORANDUM DECISION AND ORDER RE 28 U.S.C. § 2255 PETITION (DOC. 521)**

Caleb Lee Cole ("Petitioner"), a prisoner in federal custody, filed a motion to vacate, set aside, or correct his sentence or conviction pursuant to 28 U.S.C. § 2255 ("§ 2255"). Doc. 521. Petitioner acknowledges that he pled guilty to one count of mail fraud and was sentenced to 27 months incarceration and 22 months of home confinement, but now argues: (1) that his sentenced was based upon monetary losses of which he was not convicted; (2) the monetary loss to a lender considered in the sentencing process did not reflect mortgage payments he made to the lender; (3) his sentence should have been reduced because he was a minor participant; and (4) his "punishment reflects crimes [he] never committed," including, among other things, the fact that his supervised release requires monitoring for substance abuse problems even though he claims to have had no history of such problems. *Id*.

Petitioner's § 2255 motion must be denied for a simple reason. Petitioner's plea agreement with the United States, which formed the underlying basis for the sentence imposed, contains a broad waiver provision. *See* Doc. 233 at 3 (§ 4(d)). By signing the plea agreement, among other things, Petitioner agreed to waive his right to contest his sentence under § 2255. *Id*. The waiver is enforceable because it

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was clear and unambiguous and nothing in the existing record indicates it was not knowingly and voluntarily made. *See Washington v. Lampert*, 422 F.3d 864, 870 (9th Cir. 2005).

As this Petition is denied based upon well settled law, the Court finds that reasonable jurists would not find the Court's assessment of Petitioner's claims debatable or wrong. *Slack*, 529 U.S. at 483. Accordingly, the Court declines to issue a certificate of appealability.

CONCLUSION AND ORDER

Petitioner's § 2255 motion is DENIED.

IT IS SO ORDERED.

Dated: **October 7, 2014**

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE