

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

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|----------------------------------|---|-------------------------|
| JIMMY TIMOTHY BURRIS, | : | |
| | : | 5:05-CR-60 (CAR) |
| Petitioner, | : | |
| | : | |
| vs. | : | HABEAS CORPUS |
| | : | 28 U.S.C. § 2255 |
| UNITED STATES OF AMERICA, | : | |
| | : | |
| Respondent. | : | |

***ORDER ON THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE***

Before the Court is a Report and Recommendation [Doc.116] from United States Magistrate Judge G. Mallon Faircloth that recommends denying Petitioner’s Motion to Vacate, Set Aside, or Correct his Sentence Pursuant to 28 U.S.C. § 2255 [Doc. 108]. Petitioner filed an Objection to the Recommendation [Doc. 117]. Pursuant to 28 U.S.C. § 636(b)(1), the Court has thoroughly considered Petitioner's Objection, has made a de novo determination of the portions of the Recommendation to which Petitioner objects, and finds the Objection to be without merit.

In his § 2255 Motion, Petitioner makes multiple claims of ineffective assistance of counsel which the Magistrate Judge found to be meritless because his claims were primarily concerned with tactical decisions made by his trial counsel. In his Objection, Petitioner contends that he was claiming “that his attorney failed to attack the [search]

warrant itself rather than the testimony of Lt. King, [f]ailing to allow Petitioner to confront the witness which the court relied on to issue the search warrant based on what could have been no more than third party hearsay.” Petitioner contends that his attorney was ineffective in failing to attack the search warrant, insofar as the search warrant issued on the basis of Lt. King’s submission of hearsay information obtained from third parties. Petitioner, however, confuses the standard for admissibility and confrontation of a witness in a criminal trial, with the standards that govern the judicial authorization of a search warrant. As explained in the Recommendation, search warrants may perfectly well be issued on hearsay evidence, third party or otherwise. Thus, Petitioner’s ineffective assistance claims on this ground are without merit. The remainder of Petitioner’s objections simply restate his original arguments, which has been thoroughly addressed by the Magistrate Judge in his Recommendation. Thus, these objections are also without merit. Accordingly, the Recommendation that Petitioner’s § 2255 Motion be denied is hereby **ADOPTED** and **MADE THE ORDER OF THE COURT**.

SO ORDERED, this 3rd day of December, 2008.

S/ C. Ashley Royal
C. ASHLEY ROYAL
UNITED STATES DISTRICT JUDGE

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