

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION
LEXINGTON

CRIMINAL ACTION NO. 09-55-JBC

UNITED STATES OF AMERICA,

PLAINTIFF,

V.

MEMORANDUM OPINION AND ORDER

STEVEN CHRISTOPHER CHANEY,

DEFENDANT.

* * * * *

This matter is before the court on defendant Steven Christopher Chaney's motion to vacate under 28 U.S.C. § 2255 (R. 38) and the Recommended Disposition of the United States Magistrate Judge Hanly A. Ingram (R. 41). For the reasons below, the court will adopt the Recommended Disposition and deny the motion to vacate.

Chaney filed a motion to vacate judgment and sentence on August 25, 2010. On September 8, 2010, Magistrate Judge Ingram issued an order, informing Chaney that his petition was procedurally improper because it "fails substantially to follow the standard section 2255 motion form required by Rule 2(c)." R. 40 at 1. Magistrate Judge Ingram directed the clerk of the court to serve Chaney with a copy of the standard form for requesting section 2255 relief and directed Chaney to submit his corrected motion by October 8, 2010. When Chaney failed to file a corrected motion, Magistrate Judge Ingram filed a Recommended Disposition on October 27, 2010, recommending that Chaney's motion be denied under Rule 4.

Chaney filed a response on November 5, 2010. In his response, Chaney states that he did not understand he had to file the standard form for requesting section 2255 relief and was waiting for a response from this court to Magistrate Judge Ingram's order from September 8, 2010. This court construed Chaney's response as a motion for extension of time to file. The court granted the motion on May 18, 2011 and gave Chaney until June 15, 2011 to file his motion using the standard form. Chaney did not file a response by the deadline. Accordingly,

IT IS ORDERED that that the Magistrate Judge's Recommended Disposition (R. 41) is **ADOPTED** as the opinion of the court.

IT IS FURTHER ORDERED that the defendant's motion to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255 (R. 38) is **DENIED** and this matter is **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED that this court **WILL NOT ISSUE** a certificate of appealability, pursuant to 28 U.S.C § 2253(c).

Signed on July 15, 2011



Jennifer B. Coffman

JENNIFER B. COFFMAN, CHIEF JUDGE
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY