

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

BRIAN DAVID HILL,)
)
Petitioner,)
) 1:17CV1036
v.) 1:13CR435-1
)
UNITED STATES OF AMERICA,)
)
Respondent.)

ORDER

The Order and Recommendation of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. § 636(b) and, on October 21, 2019, was served on the parties in this action. (Docs. 210, 211.) Petitioner objected to the Recommendation. (Doc. 213.)¹

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a de novo determination, which is in accord with the Magistrate

¹ Petitioner has filed a host of other documents and motions with the court. Among them is a motion to disqualify the undersigned (Doc. 195), to which Petitioner refers in his objections (Doc. 213 at 1). This court previously addressed and rejected that motion. (Doc. 198.) It is noteworthy that Petitioner took the same tack as to the judge to whom Petitioner tendered his guilty plea and who sentenced Petitioner, when Petitioner charged him as "biased," having "ranted," and having refused to "accept the defendant's legal innocence." (Doc. 95.) The case was subsequently referred to the undersigned. But this court need not recuse itself because of "unsupported, irrational, or highly tenuous speculation" which has become a central component of Petitioner's litigation strategy. Assa'ad-Faltas v. Carter, No. 1:14-CV-678, 2014 WL 5361342, *2 (M.D.N.C. Oct. 21, 2014) (quoting United States v. DeTemple, 162 F.3d 279, 287 (4th Cir. 1998)).

Judge's report. The court therefore adopts the Magistrate Judge's Recommendation.

IT IS THEREFORE ORDERED that the Government's motion to dismiss (Doc. 141) be GRANTED, that Petitioner's motion to vacate, set aside or correct sentence (Doc. 125) be DISMISSED, and that this action be DISMISSED.

IT IS FURTHER ORDERED that Petitioner's motion to file under seal (Doc. 140), motion for a psychological/psychiatric evaluation (Doc. 151), motions for the appointment of counsel (Docs. 153 and 169), motion to continue supervised release (Doc. 154), motion to dismiss (Doc. 165), motion for copies (Doc. 168), and request for transcript (Doc. 194) all be DENIED. A judgment dismissing this action will be entered contemporaneously with this Order. Finding neither a substantial issue for appeal concerning the denial of a constitutional right affecting the conviction nor a debatable procedural ruling, a certificate of appealability is not issued.

/s/ Thomas D. Schroeder
United States District Judge

December 31, 2019