

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 11-22080-CIV-MIDDLEBROOKS/WHITE  
(10-20361-CR-MIDDLEBROOKS)

KRISTOPHER HENRIQSON,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.

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**ORDER ADOPTING REPORT AND RECOMMENDATION**

THIS CAUSE comes before the Court upon Movant's *pro se* Amended Motion to Vacate Sentence pursuant to 28 U.S.C. § 2255 ("§ 2255 Motion") (CV-DE 7), attacking his conviction in Case No. 10-20361-CR-MIDDLEBROOKS.

Movant claims he was denied effective assistance of counsel because his counsel permitted him to enter a guilty plea to the charge of aggravated identity theft when the government could not prove at trial that Movant knew the credit cards he possessed at the time of his arrest belonged to another person. In order to prevail on a claim of ineffective assistance of counsel, an individual must prove the following: (1) deficient performance, by showing that his counsel's representation fell below an objective standard of reasonableness; and (2) prejudice, by establishing but for the deficiency in representation, there is a reasonable probability that the result of the proceeding would have been different. *See Strickland v. Washington*, 466 U.S. 668 (1984). A court may decline to reach the deficient performance prong of the Strickland standard if it is convinced that the prejudice prong cannot be satisfied. *Id.* at 697.

This matter was referred to the Honorable United States Magistrate Judge Patrick A. White, who issued a Report and Recommendation (CV-DE 11) ("Report") recommending that Movant's Motion to Vacate be dismissed because Movant neither demonstrated that his counsel's

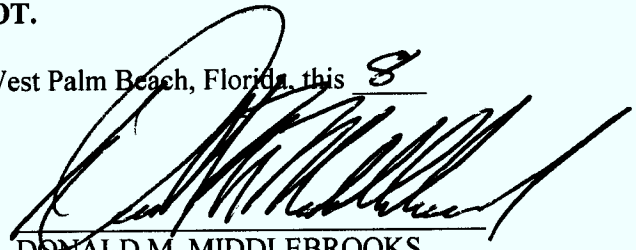
performance was deficient nor that he was prejudiced by his counsel's performance. (CV-DE 11 at 10). Judge White filed his Report on December 12, 2011, and, since that time, neither Party has filed an objection. I have considered Judge White's Report, Movant's § 2255 Motion, and am otherwise fully advised in the premises.

Having conducted an independent *de novo* review of the record in this case, I find that Judge White correctly determined that Movant's Motion to Vacate should be dismissed. Accordingly, for the reasons stated in the Report, and upon a careful, *de novo* review of the record, it is hereby

**ORDERED AND ADJUDGED** that United States Magistrate Judge White's Report and Recommendation (CV-DE 11) is **RATIFIED, ADOPTED, AND APPROVED** in its entirety. It is further

**ORDERED AND ADJUDGED** that Petitioner's Motion to Vacate pursuant to 28 U.S.C. § 2255 (CV-DE 7) is **DISMISSED WITH PREJUDICE**. The Clerk of Court shall **CLOSE** this case and all pending motions are **DENIED AS MOOT**.

**DONE AND ORDERED** in Chambers in West Palm Beach, Florida, this 8  
day of February, 2012.



DONALD M. MIDDLEBROOKS  
UNITED STATES DISTRICT JUDGE

cc:  
Magistrate Judge White;  
Counsel of Record;  
Kristopher Henriqson, *pro se*