

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT MARTINSBURG**

ROBERT LEO BREEDEN,

Petitioner,

v.

**CIVIL ACTION NO. 3:04CV60
CRIMINAL ACTION NO. 3:00CR57
(BROADWATER)**

UNITED STATES OF AMERICA,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day the above styled case came before the Court for consideration of the Report and Recommendation (**Docket # 5**) of Magistrate Judge James E. Seibert, dated March 24, 2005 regarding petitioner's Motion to Vacate under 28 U.S.C. § 2255. The petitioner did not file objections to the Report. After reviewing the above, the Court is of the opinion that the Magistrate Judge's Report and Recommendation should be and is hereby **ORDERED** adopted.

The Court further **ORDERS** that petitioner's § 2255 motion (**Docket # 1**) be **DENIED and DISMISSED WITH PREJUDICE** based on the reasons set forth in the Magistrate Judge's Report and Recommendation. It is further **ORDERED** that this action be and is hereby **STRICKEN** from the active docket of this Court.

The Clerk is directed to transmit true copies of this Order to the petitioner and all counsel of record herein.

DATED this 5th day of May 2005.


W. CRAIG BROADWATER
UNITED STATES DISTRICT JUDGE