

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

**JOHN SAMUEL LEIGH,  
Petitioner,**

v.

**CIVIL ACTION NO. 3:04CV22  
CRIMINAL ACTION NO. 3:00-CR-57-25  
(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 of Magistrate Judge James E. Seibert, dated June 3, 2005. 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 (**Docket # 1094**) should be and is hereby **ORDERED** adopted.

The Court thus **ORDERS**

- 1) petitioner's § 2255 motion (**Docket # 1026**) is **DENIED WITH PREJUDICE** based on the reasons set forth in the Magistrate Judge's Report and Recommendation;
- 2) petitioner's motion for entry of default (**Docket # 1039**) is **DENIED WITH PREJUDICE**;
- 3) petitioner's motion for extension of time to file (**Docket #1040**) is **DENIED** as **MOOT**;
- 4) defendant's motion to continue or in the alternative to stay (**Docket # 1045**) is **DENIED** as **MOOT**; and
- 4) this action is hereby **STRICKEN** from the active docket of this Court.

The Clerk is directed to transmit true copies of this Order to the petitioner, counsel of record

herein, and the Honorable James E. Seibert.

**DATED** this 27<sup>th</sup> day of December, 2005.

*W. Craig Broadwater*  
**W. CRAIG BROADWATER**  
**UNITED STATES DISTRICT JUDGE**