

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

**MICHAEL ANDREW LARGENT,**

**Petitioner,**

**v.**

**CIVIL ACTION NO. 3:04CV1  
CRIMINAL ACTION NO. 3:02CR38  
(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 March 29, 2005. On April 18, 2005, the petitioner filed timely objections to the Report. In the interests of justice and in accordance with 28 U.S.C. § 636(b)(1), the Court has conducted a *de novo* review of Magistrate Judge Seibert's findings of fact and recommendations to which the respondent objects. 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

1) the petitioner's § 2255 motion (**Docket # 1**) be **DENIED and DISMISSED WITH PREJUDICE** without an evidentiary hearing based on the reasons set forth in the Magistrate Judge's Report and Recommendation;

2) petitioner's "Request[] that this Honorable Court Take Judicial Notice of the Supreme Court's Recent Decision that Implicates the United States Sentencing Guidelines as It Is Applicable to His Instant Case" (**Docket # 5**) be and is hereby **DENIED**; and

3) petitioner's request for counsel be **DENIED**, and finally,

4) 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 4<sup>th</sup> day of May 2005.

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