

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

EMILIO CHASE,

Petitioner,

v.

**CIVIL ACTION NO. 3:05CV79
CRIMINAL ACTION NO. 3:04CR42
(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 September 26, 2005. Neither party filed any objections to the Report. After reviewing the above, the Court is of the opinion that the Magistrate Judge's Report and Recommendation (**Docket #3 in 3:05CV79 and Docket #46 in 3:04CR42**) should be and is hereby **ORDERED** adopted.

The Court further **ORDERS** that the petition of the petitioner (**Docket # 1 in 3:05CV79**) be **DENIED and DISMISSED WITHOUT 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 23rd day of February 2006.


W. CRAIG BROADWATER
UNITED STATES DISTRICT JUDGE