

EXHIBIT

REPORT AND RECOMMENDATIONS BY MAGISTRATE ERIN L. SETSER
DATED MARCH 24, 2015 (DOC. 233)

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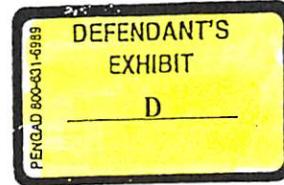
IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

UNITED STATES OF AMERICA

V.

NO. 10-CR-50067

JAMES B. MITCHELL



MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

On November 27, 2012, Defendant/Movant James B. Mitchell (hereinafter "the Defendant") filed a brief in support of his amended 28 U.S.C. § 2255 motion.¹ (Doc. 139). The parties thereafter submitted briefs, and the matter is now ripe for consideration. The undersigned, being well and sufficiently advised, finds and recommends as follows with respect thereto:

I. PROCEDURAL BACKGROUND:

On September 15, 2010, a twelve-count Superceding Indictment was filed (Doc. 29), wherein Defendant was charged in eleven of the counts, which included: 1) conspiracy to use an interstate facility to distribute proceeds of an unlawful activity and to promote, manage, establish, carry on and

¹Defendant's initial § 2255 motion set forth seven grounds. (Doc. 87). Thereafter, Defendant filed two supplements to his motion (Docs. 97 and 108), and another memorandum of law in support of his motion. (Doc. 116). On September 7, 2012, the undersigned entered an Order, stating that the documents would not be considered, and gave Defendant until October 26, 2012, to file a single brief in support of his originally filed § 2255 motion. (Doc. 117). No other briefs, amendments, supplements, etc. were to be filed by Defendant without first seeking leave of Court. (Doc. 117). On November 27, 2012, Defendant filed his memorandum of law late, and raised nine grounds. (Doc. 139). Although it was not timely filed, the Court will address the grounds raised in Defendant's brief filed on November 27, 2012. (Doc. 139). The Court will also consider the Government's response (Doc. 160) and Defendant's Reply, which is titled "Petitioner's Response to Government Answer. (Doc. 164). However, without the Court's permission, Defendant subsequently filed a "Petitioner's Response to Government Answer on November 25, 2013 (Doc. 166), a Reply to Response filed on August 14, 2014 (Doc. 196), and a "Final Reply to Government Answer to § 2255 in re: Doc. 204" (Doc. 206), which will not be considered, as they were filed without seeking court permission.

A TRUE COPY I CERTIFY
DOUGLAS F. YOUNG, CLERK
U.S. DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
By: Douglas F. Young

specific to trigger de novo review by the district court.

DATED this 24th day of March, 2015.

/s/ Erin L. Setser

HON. ERIN L. SETSER
UNITED STATES MAGISTRATE JUDGE

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DOUGLAS F. YOUNG, CLERK
U.S. DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
By: *Douglas F. Young*