



USA v. Celio et al

2014 | Cited 0 times | D. Colorado | July 8, 2014

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLORADO

Judge Christine M. Arguello Criminal Case No. 01-cr-00165-CMA-1 Civil Action No. 08-cv-02365-CMA UNITED STATES OF AMERICA, Plaintiff-Respondent, v. 1. ALBERT CELIO, Defendant-Movant.

ORDER ADOPTING AND AFFIRMING JUNE 7, 2013 RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

This matter is before the Court on Mr. Albert Celio's "Petition for Writ of Error Coram Nobis to Vacate, Set Aside, or Modify Sentence" (Doc. # 582). Pursuant to an Order of Reference dated February 26, 2013 (Doc. # 484), this motion was referred to Magistrate Judge Craig B. Shaffer to file proposed findings of fact and recommendations for disposition. On June 7, 2013, Judge Shaffer issued a Recommendation to deny Mr. Celio's motion. (Doc. # 592 .) Thereafter, Plaintiff filed an objection to the Recommendation. (Doc. # 595.)

When a magistrate judge issues a recommendation on a dispositive matter, Fed. R. Civ. P. 72(b)(3) requires that the district judge "determine de novo any part of the magistrate judge's [recommended] disposition that has been properly objected to." An objection is properly made if it is both timely and specific. *United States v. One Parcel of Real Property Known As 2121 East 30th Street*, 73 F.3d 1057, 1059 (10th Cir. 1996). In conducting its review, "[t]he district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions." Fed. R. Civ. P. 72(b)(3). The background of this case has been discussed in detail in Magistrate Judge Shaffer's recommendation, as well as various orders addressing Mr. Celio's prolific post-conviction motions. In the instant case, Plaintiff does not "properly object[]" to any part of the Recommendation. Instead, he reiterates arguments that were properly before Magistrate Judge Shaffer at the time his Recommendation issued. Nonetheless, the Court has conducted a de novo review of this matter, including reviewing all relevant pleadings, the Recommendation, and Plaintiff's objection thereto. Based on this de novo review, the Court concludes that Judge Shaffer's Recommendation is correct and is not called into question by Plaintiff's objections . Accordingly, it is hereby ORDERED that Mr. Celio's objection (Doc. # 595) is OVERRULED. It is

FURTHER ORDERED that the Recommendation of United States Magistrate Judge Craig B. Shaffer



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(Doc. # 592) is AFFIRMED and ADOPTED as an Order of this Court. Pursuant to the Recommendation. It is

FURTHER ORDERED that Mr. Celio's "Petition for Writ of Error Coram Nobis to Vacate, Set Aside, or Modify Sentence" (Doc. # 582) is DENIED. It is

FURTHER ORDERED that pursuant to 28 U.S.C. § 2253(c), no certificate of appealability will issue. It is

FURTHER ORDERED that Mr. Celio's Motion for Status (Doc. # 596) is DENIED. DATED: July 08 , 2014 BY THE COURT:

_____ CHRISTINE M. ARGUELLO United States District Judge

