

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

UNITED STATES OF AMERICA,)	
)	
)	
v.)	CRIMINAL No. 2:03-CR-52-DBH
)	
LARRY McCOULLUM,)	
)	
DEFENDANT)	

**ORDER AFFIRMING RECOMMENDED DECISION
OF THE MAGISTRATE JUDGE**

On August 28, 2012, the United States Magistrate Judge filed with the court, with copies to the parties, her Recommended Decision. The time within which to file objections expired on September 14, 2012, and no objections have been filed. The Magistrate Judge notified the parties that failure to object would waive their right to *de novo* review and appeal.

It is therefore **ORDERED** that the Recommended Decision of the Magistrate Judge is hereby **ADOPTED**. This Court has no jurisdiction to resentence the defendant or to allow him to withdraw his plea of guilty after almost ten years have passed. The only available remedy in this Court is via 28 U.S.C. § 2255, and a petition under that statute is time barred and procedurally inappropriate because the defendant has not obtained leave from the circuit court of appeals to file a second or successive petition. Therefore, the defendant's Motion to

Correct Guilty Plea or Motion to Withdraw Plea of Guilty or in the Alternative Motion for Evidentiary Hearing is **DENIED**.

Finally, I also find at this time that no certificate of appealability should issue because there is no substantial issue that could be presented on appeal. See Fed. R. App. P. 22(b); First Circuit Local Rule 22.1.

SO ORDERED.

DATED THIS 9TH DAY OF OCTOBER, 2012

/s/D. BROCK HORNBY _____
D. BROCK HORNBY
UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE (PORTLAND)
CRIMINAL DOCKET No. 2:03-CR-52-DBH**

United States of America

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v.

**Larry McCoullum,
Defendant**

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