

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

UNITED STATES OF AMERICA)	
)	
)	
v.)	CRIMINAL No. 2:07-CR-123-DBH
)	(CIVIL No. 12-cv-365-DBH)
HOWARD KELLY,)	
)	
DEFENDANT)	

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

On November 27, 2013, the United States Magistrate Judge filed with the court, with copies to the parties, her Recommended Decision on 28 U.S.C. § 2255. The defendant requested and received an extension of time until January 11, 2014, to file an objection, but no objection has been filed.

It is therefore **ORDERED** that the Recommended Decision of the Magistrate Judge is hereby **ADOPTED**. The defendant's motion to withdraw his section 2255 petition is **DENIED**. I rule on the section 2255 petition as follows: the claims concerning restitution are **DISMISSED WITH PREJUDICE**; the claim for return of personal property that is not subject to restitution is **DISMISSED WITHOUT PREJUDICE**, pursuant to Fed. R. Crim. P. 41(g); the claim of actual innocence is **DISMISSED WITH PREJUDICE**; and the claims that are based on the allegation that the defendant could not participate meaningfully in hearings due to deprivation of medical services and medications are **DENIED WITH PREJUDICE**.

Finally, I find that no certificate of appealability shall issue in the event the movant files a notice of appeal because there is no substantial showing of the denial of a constitutional right within the meaning of 28 U.S.C. § 2253(c)(2).

SO ORDERED.

DATED THIS 22ND DAY OF JANUARY, 2014

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

**U.S. DISTRICT COURT
DISTRICT OF MAINE (PORTLAND)
CRIMINAL DOCKET No. 2:07-CR-123-DBH)**

United States of America

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v.

**Howard Kelly,
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