

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

RAMONT LAMONT ADAMS,	:	MOTION TO VACATE
Movant,	:	28 U.S.C. §2255
	:	
v.	:	CRIMINAL ACTION NO.
	:	1:19-CR-217-MLB-JSA-1
UNITED STATES,	:	
Respondent.	:	CIVIL ACTION NO.
	:	1:22-CV-1337-MLB-JSA

**MAGISTRATE JUDGE’S SUPPLEMENTAL FINAL REPORT AND
RECOMMENDATION**

The matter has been submitted to the undersigned for consideration of Movant Ramon Lamont Adams’s claim that counsel was ineffective. (Docs. 128, 161). Specifically, Movant argues that counsel should have moved for a dismissal because the Government failed to indict him within thirty days of the date he committed the offenses to which he entered a guilty plea. (Doc. 128). According to Movant, this failure violated his right to a speedy trial under the Fifth and Sixth Amendments and pursuant to 18 U.S.C. §1361(c)(1), the Speedy Trial Act. (*Id.*).

I. Background

Movant was a federal prisoner at the United States Penitentiary in Atlanta, Georgia (“USP-Atlanta”)¹ on September 22, 2017, when he and three co-defendants

¹ USP-Atlanta recently changed names to the Federal Correctional Institution (“FCI-Atlanta”).

robbed and sexually assaulted another inmate who was confined to a wheelchair. (Doc. 117 at 8; Doc. 133 at 1-4). On June 11, 2019, a grand jury in the Northern District of Georgia entered an indictment against Movant and his co-defendants and charged them with one count of conspiracy to commit robbery in violation of 18 U.S.C. §2111(a), one count of robbery in violation of 18 U.S.C. §§7(3), 2111, and 2, and one count of aggravated sexual abuse in violation of 18 U.S.C. §§7(3), 2241(a)(1), and 2. (Doc. 1). An arrest warrant was issued for Movant on that same day. (Doc. 3). The grand jury entered a superseding indictment on August 14, 2019. (Doc. 21).²

On December 8, 2020, Movant entered a negotiated guilty plea to the robbery and aggravated sexual abuse charges. (Docs. 72, 72-1). On April 13, 2021, the Court sentenced Movant to a concurrent 210 months of imprisonment on each count – the lowest end of the guidelines range. (Docs. 82, 118).

Through new counsel, Movant filed a notice of appeal. (Docs. 89, 103). On March 14, 2022, counsel filed a motion to dismiss the appeal without prejudice, indicating that Movant had decided that he no longer wished to pursue the appeal and had instructed counsel to file the motion to dismiss. *See United States v. Adams*,

² The original indictment named another inmate, D’Angelo Rashad Palmer, as a codefendant; however, the superseding indictment removed Palmer and replaced his name with “another person unknown to the grand jury.” (*See generally*, Doc. 21). That change appears to be the only difference between the original and superseding indictments.

No. 21-12860, at Doc. 22 (11th Cir. Mar. 14, 2022) (PACER). The Eleventh Circuit granted the motion and dismissed Movant's appeal on March 16, 2022. *Id.* at Docs. 23, 24 (11th Cir. Mar. 16, 2022) (PACER); (*see also* Doc. 121).

In March 2022 Movant filed a *pro se* motion, and an amended and two supplemental motions, to vacate his sentence pursuant to 28 U.S.C. §2255. (Docs. 122, 125, 128, 129). Therein, Movant raised claims that he was actually innocent, that counsel was ineffective by not pursuing the actual innocence claim, and that counsel was ineffective for failing to seek a dismissal based on a violation of Movant's speedy trial rights. (*Id.*; Docs. 125, 128, 129). The undersigned entered a final report and recommendation ("R&R") on August 31, 2023, set forth a lengthy and inclusive factual and procedural history which the undersigned incorporates by reference here, and recommended denying the §2255 motion. (Doc. 133). Former Chief U.S. District Judge Timothy C. Batten adopted the R&R on September 22, 2023, denied the §2255 motion and a certificate of appealability ("COA"), and dismissed the motion.³ (Doc. 135).

Movant appealed that decision, and on July 23, 2025 the Eleventh Circuit remanded the case to this Court under *Clisby v. Jones*, 960 F.2d 925 (11th Cir. 1992) (*en banc*), to review Movant's claim that his speedy trial rights were violated when

³ This case was reassigned to U.S. District Judge Michael L. Brown after Judge Batten retired.

he was not indicted within thirty days of the date of the offense.⁴ *Adams v. United States*, No. 24-10219, 2025 WL 2057831 (11th Cir. July 23, 2025) (per curiam) (*see also* Doc. 161). For the following reasons, the undersigned **RECOMMENDS** that this claim be denied.

II. Discussion

Movant argues that counsel was ineffective for failing to move for dismissal because his speedy trial rights were violated when the Government failed to indict him within thirty days after he committed the offense. Movant's claim fails.

A. Ineffective Assistance of Counsel Standard

In order to demonstrate ineffective assistance of counsel, a movant must show that counsel's performance was deficient, and that the deficiency prejudiced the defense. *Wiggins v. Smith*, 539 U.S. 510, 521 (2003) (citing *Strickland v.*

⁴ In addition to Movant's claims of actual innocence and counsel's ineffective assistance for failing to raise the actual innocence claim, Movant had argued that counsel should have raised two separate speedy trial rights claims, *i.e.*, that: (1) the Government failed to indict him within thirty days of the crime; and (2) he was not brought to trial within seventy days of the indictment, in violation of the Speedy Trial Act. This Court addressed the latter argument but inadvertently did not review the former. (Doc. 128; Doc. 133 at 16-19; Doc. 135). Significantly, the Eleventh Circuit only granted a COA on the issue of whether this Court failed to address the first claim, *Adams*, 2025 WL 2057831, at *1, and its mandate does not affect the Court's decision in connection with Movant's remaining claims. As a result, the undersigned will rely on the analysis in the August 31, 2023 R&R recommending dismissal of all claims other than the allegation that his speedy trial rights were violated because the Government did not indict him within thirty days of the offense.

Washington, 466 U.S. 668, 688 (1984)). To establish deficiency, a movant is required to establish that “counsel’s representation ‘fell below an objective standard of reasonableness.’” *Id.* For prejudice, a movant must prove that there is a “reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Strickland*, 466 U.S. at 694; *Allen v. Sec’y, Fla. Dep’t of Corr.*, 611 F.3d 740, 750 (11th Cir. 2010). The Court may “dispose of [the] ineffectiveness claim[] on either of its two grounds.” *Atkins v. Singletary*, 965 F.2d 952, 959 (11th Cir. 1992); *see also Strickland*, 466 U.S. at 697 (“[T]here is no reason for a court deciding an ineffective assistance claim . . . to address both components of the inquiry if the defendant makes an insufficient showing on one.”).

B. Counsel Did Not Provide Ineffective Assistance.

1. *Rights under the Speedy Trial Act*

The Speedy Trial Act requires that an indictment be filed within thirty days from the date the defendant was *arrested* or *served with a summons* in connection with the charges against him. 18 U.S.C. §3161(b) (emphasis added). Nothing in the statute, however, supports Movant’s argument that the Speedy Trial Act requires that an indictment be filed within thirty days of the date of the offense. *See generally* 18 U.S.C. §3161. Here, Movant’s arrest warrant was issued on June 11, 2019, which was the same day the grand jury entered its indictment against him. (Docs. 1, 3). Therefore, Movant’s rights under the Speedy Trial Act were not violated. *See, e.g.,*

United States v. Varella, 692 F.2d 1352, 1358 (11th Cir. 1982) (“[T]he Act’s thirty-day time period contained in §3161(b) did not begin to run until August 13, the date appellant Gavin was arrested and formal charges were filed against him.”); *United States v. Pasillas-Castanon*, 525 F.3d 994, 997 (10th Cir. 2008) (“[F]ederal officials complied with the Speedy Trial Act because Pasillas-Castanon was indicted within thirty days of [h]is arrest – in fact, he was indicted the same day he was arrested for the federal criminal offense.”); *see also United States v. Mena-Valdez*, No. 8:19CR65, 2023 WL 5486251, at *7 (D. Neb. Aug. 24, 2023) (finding although movant was arrested by state officials on the date his vehicle was stopped, he was not arrested for purposes of the federal Speedy Trial Act until the date the federal arrest warrant was issued, and his statutory speedy trial rights were not violated because the indictment was filed the same day).

2. *Sixth Amendment*

Movant also contends that the delay between the time the crimes were committed and the time he was indicted violated his Sixth Amendment right to a speedy trial. The Sixth Amendment provides that “[i]n all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial. . . .” U.S. Const. amend. VI. Like the Speedy Trial Act, however, the Sixth Amendment right to a speedy trial is only activated once a person has been “accused.” *See United States v. Marion*, 404 U.S. 307, 315 (1971) (rejecting claim that constitutional speedy trial

rights were violated by three-year period between the time of the offense and the return of the indictment because “the Sixth Amendment speedy trial provision has no application until the putative defendant in some way becomes an ‘accused,’ an event that occurred in this case only when the appellees were indicted . . .”); *Stoner v. Graddick*, 751 F.2d 1535, 1541 (11th Cir. 1985) (per curiam) (“[T]he Speedy Trial Clause is inapplicable where, as here, the delay concerns a period of time prior to indictment, information, or arrest.”); *United States v. Stoudemire*, No. 1:20-CR-00220-SDG-RDC-1, 2021 WL 1940656, at *2 (N.D. Ga. May 14, 2021) (“But the speedy trial clause of the Sixth Amendment simply does not apply to ‘the period prior to arrest’ – regardless of the length of the delay at issue.”) (citation omitted); *see also United States v. Pendergrass*, No. 22-13018, 2025 WL 78172, at *6 (11th Cir. Jan. 13, 2025) (per curiam) (“The Supreme Court has held that the Sixth Amendment’s protection is triggered only when a person is accused by the federal government through ‘formal indictment or information’ or the ‘actual restraints imposed by arrest and holding to answer a criminal charge.’”) (quoting *Marion*, 404 U.S. at 320, 325). In short, the fact that Movant was not indicted within thirty days of the day he committed the offenses is simply irrelevant to his Sixth Amendment right to a speedy trial. *See United States v. Lovasco*, 431 U.S. 783, 788-89 (1977) (stating that any lengthy pre-indictment delay is “wholly irrelevant” to the Sixth Amendment right to a speedy trial because “only ‘a formal indictment or information

or else the actual restraints imposed by arrest and holding to answer to a criminal charge . . . engage the particular protections’ of that provision.”) (quoting *Marion*, 404 U.S. at 322).

3. *Fifth Amendment*

Although the Sixth Amendment’s Speedy Trial Clause does not apply to pre-indictment delays, the Supreme Court has recognized that “statutes of limitations, which provide predictable, legislatively enacted limits on prosecutorial delay” provide protection for a defendant against the Government “bringing overly stale criminal charges.” *Lovasco*, 431 U.S. at 789 (internal quotation marks and citations omitted); *see also United States v. Ramirez*, 491 F. App’x 65, 70 (11th Cir. 2012) (per curiam) (“The statute of limitations is the primary safeguard against the government bringing stale criminal charges[.] . . .”); *United States v. Foxman*, 87 F.3d 1220, 1224 n.4 (11th Cir. 1996) (noting that it had never concluded that a dismissal for pre-indictment delay was appropriate because “the statute of limitations protects defendants in almost every case”). In other words, “[t]he limit on pre-indictment delay is usually set by the statute of limitations.” *Foxman*, 87 F.3d at 1222.

Here, Movant was indicted well within the five-year statute of limitations contained in 18 U.S.C. §3282(a), and as a result the two-year pre-indictment delay was presumptively reasonable. *See United States v. Witchard*, No. 6:14-CR-112-

ORL-18GJK-1, 2014 WL 12657021, at *2 (M.D. Fla. Aug. 27) (“[B]ecause all of the offenses charged in the indictment are within the applicable statute of limitations, the delay between the offenses, the . . . search warrant, and the . . . indictment are presumptively reasonable.”), *report and recommendation adopted*, 2014 WL 12657032 (M.D. Fla. Sep. 12, 2014), *aff’d*, 646 F. App’x 793 (11th Cir. 2016) (per curiam). Regardless, because the Due Process Clause of the Fifth Amendment also “has a limited role to play in protecting against oppressive delay,” *Lovasco*, 431 U.S. at 789, this Court must evaluate whether the pre-indictment delay in Movant’s case violated his due process rights. *See United States v. Russaw*, No. 23-11598, 2023 WL 5423510, at *2 (11th Cir. Aug. 23, 2023) (per curiam) (“But the Due Process Clause can bar an indictment even when the indictment is brought within the limitation period.”) (quoting *Foxman*, 87 F.3d at 1222). The short answer is no.

To prove a Fifth Amendment due process violation resulting from any such pre-indictment delay, a defendant must show (1) actual prejudice from the delay; and (2) that the delay resulted from a “deliberate design by the government to gain a tactical advantage.” *Pendergrass*, 2025 WL 78172, at *4. Movant has not satisfied this “very heavy burden.” *United States v. Marshall*, 360 F. App’x 24, 25 (11th Cir. 2010) (per curiam); *see also Foxman*, 87 F.3d at 1224 n.4 (describing dismissal of an indictment for pre-indictment delay as “rare”); *United States v. Murphy*, 100 F.4th 1184, 1209 (10th Cir. 2024) (stating that it is “‘extremely difficult for a defendant to

prevail’ on a claim that the government’s pre-indictment delay violated his due process rights”) (citations omitted).

Indeed, Movant provides no allegations whatsoever to show that he suffered actual prejudice or that the Government deliberately delayed seeking an indictment to gain a tactical advantage. Instead, Movant simply states the conclusion that the Government’s two-year delay between the crime and the indictment violated his rights to a speedy trial. These conclusory allegations, however, are insufficient. *See, e.g., United States v. Farias*, 836 F.3d 1315, 1325 (11th Cir. 2016) (affirming denial of defendant’s motion to dismiss indictment based on his “vague allegation, stated at the highest order of abstraction, that the passage of time made it more difficult” for him and “he made absolutely no showing that the pre-indictment delay was the product of deliberate design by the government to gain a tactical advantage over him”); *Ramirez*, 491 F. App’x at 70 (affirming denial of motion to dismiss for pre-indictment delay based on conclusory statement that the Government deliberately delayed indictment to gain a tactical advantage); *Murphy*, 100 F.4th at 1209 (“[W]e have held that the identified delay must prejudice the defendant’s ‘substantial rights,’ and the defendant’s claims of prejudice must be ‘definite,’ not ‘speculative’ or ‘[v]ague and conclusory.’”) (alteration in original) (citations omitted). Thus, Movant’s due process rights were not violated by the pre-indictment delay.

Since Movant has not demonstrated that his speedy trial rights were violated by the delay between his offenses and the indictment, counsel could not have been deficient for failing to raise this meritless issue in a motion to dismiss. *See, e.g., Santiago v. United States*, No. 24-10272, 2024 WL 5356554, at *2 (11th Cir. July 31, 2024) (“[C]ounsel is not deficient for failing to raise a meritless argument.”), *cert. denied*, No. 24-6694, 2025 WL 1151329 (U.S. Apr. 21, 2025); *Mustafa v. Fla. Dep’t of Corr.*, No. 23-10029, 2023 WL 4347053, at *1 (11th Cir. June 28, 2023) (“[I]t is axiomatic that the failure to raise nonmeritorious issues does not constitute ineffective assistance.”) (internal quotation marks and citation omitted); *Pinkney v. Sec’y, DOC*, 876 F.3d 1290, 1297 (11th Cir. 2017) (“[A]n attorney will not be held to have performed deficiently for failing to perform a futile act, one that would not have gotten his client any relief.”). Movant, therefore, is not entitled to relief.

IV. Conclusion

For the foregoing reasons and the reasons discussed in the August 31, 2023 R&R [Doc. 133], **IT IS HEREBY RECOMMENDED** that Ramont L. Adams’s motion to vacate his sentence be **DENIED WITH PREJUDICE**.

V. Certificate Of Appealability

Pursuant to Rule 11 of the Rules Governing §2255 Cases, “[t]he district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant. . . . If the court issues a certificate, the court must state the specific

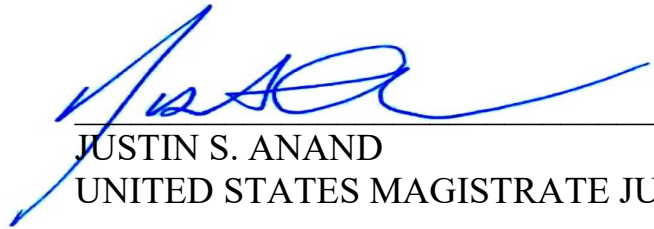
issue or issues that satisfy the showing required by 28 U.S.C. § 2253(c)(2).” 28 U.S.C. §2253(c)(2) provides that a certificate of appealability (“COA”) may issue “only if the applicant has made a substantial showing of the denial of a constitutional right.” In order for the certification requirement to fulfill its function of weeding out frivolous appeals, a court should not automatically issue a COA; rather, the applicant must prove “something more than the absence of frivolity” or “the existence of mere ‘good faith’ on his or her part.” *Miller-El v. Cockrell*, 537 U.S. 322, 338 (2003) (citations omitted).

Movant need not prove, however, that some jurists would grant the §2255 motion. *See id.* “The question is the debatability of the underlying constitutional claim, not the resolution of that debate.” *See Lamarca v. Secretary, Dep’t of Corr.*, 568 F.3d 929, 934 (11th Cir. 2009) (citing *Miller-El*, 537 U.S. at 325). In other words, Movant need only demonstrate that “reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Based on the foregoing discussion, reasonable jurists would not find “debatable or wrong” the undersigned’s determination that Movant has not demonstrated ineffective assistance of counsel based on counsel’s failure to move for dismissal of the indictment. *See Slack*, 529 U.S. at 484.

Accordingly, **IT IS FURTHER RECOMMENDED** that a COA be denied.

The Clerk is **DIRECTED** to terminate the reference to the undersigned Magistrate Judge.

IT IS SO RECOMMENDED this 26th day of September, 2025.



JUSTIN S. ANAND
UNITED STATES MAGISTRATE JUDGE