

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

| | | |
|-----------------------------|---|--------------------------------|
| JAMES HENRY WHITE, #145017, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | CIVIL ACTION NO. 1:09cv370-TMH |
| |) | |
| LOUIS BOYD, et al., |) | |
| |) | |
| Respondents. |) | |

ORDER AND OPINION

On June 4, 2009, the Magistrate Judge filed a Recommendation in this case to which no timely objections have been filed. (Doc. # 4). Upon an independent review of the file in this case and upon consideration of the Recommendation of the Magistrate Judge, it is

ORDERED and ADJUDGED that the Recommendation of the Magistrate Judge be and is hereby ADOPTED and that:

1. The 28 U.S.C. § 2254 petition for habeas corpus relief filed by petitioner on April 19, 2009¹ is DENIED.
2. This cause of action is DISMISSED in accordance with the provisions of 28 U.S.C. § 2244(b)(3)(A) as petitioner has failed to obtain the requisite order

¹ Although the present petition was stamped “filed” in this court on April 22, 2009, the petition was signed by petitioner on April 19, 2009. A *pro se* inmate’s petition is deemed filed the date it is delivered to prison officials for mailing. *Houston v. Lack*, 487 U. S. 266, 271-271 (1988); *Adams v. United States*, 173 F. 3d 1339, 1340-41 (11th Cir. 1999); *Garvey v. Vaughn*, 993 F.2d 776, 780 (11th Cir. 1993). Absent evidence to the contrary in the form of prison logs or other records, [this court] must assume that [the instant petition] was delivered to prison authorities the day [White] signed it ...” *Washington v. United States*, 223 F.3d 1299, 1301 (11th Cir. 2001). In light of the foregoing, the court considers April 19, 2009 as the date of filing.

from the Eleventh Circuit Court of Appeals authorizing a federal district court
to consider his successive habeas application.

Done this the 22nd day of June, 2009.

/s/ Truman M. Hobbs

SENIOR UNITED STATES DISTRICT JUDGE