

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

FREDDIE B. WALKER, #159 866 )  
Petitioner, )  
v. )  
KENNETH JONES, et al., ) Case No. 1:12cv619-WHA  
Respondents. ) (wo)

## ORDER

This case is before the court on the Recommendation of the Magistrate Judge (Doc. #16), entered on June 16, 2015, and the Objection of the Petitioner (Doc. #21 filed on July 28, 2015 and Doc. #22 filed on July 29, 2015).

The court has conducted an independent evaluation and de novo review of the file in this case and finds as follows:

The Magistrate Judge recommended that this habeas corpus petition be denied because it was not filed within the period of limitation established by applicable federal law.

Through his objection to the recommendation, Petitioner seeks to submit an additional actual innocence argument in an effort to avoid the time bar. He has submitted an affidavit from a person claiming to be a niece of the victim who, in an attempt to "clear her conscience" before she passed, stated to the niece that the Petitioner did not rape, kidnap, or sodomize her and that they had consensual sex. Petitioner, however, has not shown that his actual innocence claim meets *Schlup* 's requirement that he produce reliable, credible evidence of his factual innocence. *Schlup v. Delo*, 513 U.S. 298, 324 (1995).

Accordingly, the court finds the Objection to be without merit and it is hereby

ORDERED as follows:

1. The Objection is OVERRULED.
2. The court adopts the Recommendation of the Magistrate Judge.
3. This 28 U.S.C. §2254 petition for habeas corpus relief is DENIED as not being timely filed pursuant to 28 U.S.C. §2244(d)(1).
4. This case is DISMISSED with prejudice.

Done this 30th day of September, 2015.

/s/ W. Harold Albritton  
W. HAROLD ALBRITTON  
SENIOR UNITED STATES DISTRICT JUDGE