

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

CHARLES LOUIS PETERSON,	)	
	)	
Petitioner,	)	
	)	
vs.	)	CASE NO. 2:12-cv-391-WHA
	)	
GARY HETZEL, et al,	)	(WO)
	)	
Respondents.	)	

**ORDER**

This case is before the court on the Recommendation of the Magistrate Judge (Doc. #14) and Petitioner’s objection thereto (Doc. #15). Following an independent evaluation and *de novo* review of the file in this case, the court finds the objection to be without merit, and it is hereby **OVERRULED**.

Peterson objects to the Magistrate Judge’s Recommendation finding his 2254 petition to be either successive or time-barred, depending on which of two state convictions he was seeking to challenge by his petition - one for felony murder or one for second-degree burglary.

In his objection, Peterson insists he was challenging his prior conviction and sentence for felony murder, but that the Recommendation failed to address his claims as to that conviction and sentence. Notwithstanding Peterson's objection, the felony murder conviction (and sentence) was one of the two convictions addressed by the Magistrate Judge in his Recommendation. See Recommendation, Doc. No. 14 at pp. 2-4. As to that conviction, the Recommendation found Peterson's 2254 petition was a successive petition filed without Eleventh Circuit permission. A footnote in the Recommendation points out that Peterson even raised an

identical argument as to that conviction and sentence in his prior 2254 petition. See Recommendation at p. 2 n.3.

Peterson's objection is therefore meritless, and his 2254 petition is successive as to his felony murder conviction and sentence.

Therefore, the court ADOPTS the Recommendation of the Magistrate Judge, and it is hereby ORDERED as follows:

1. To the extent Peterson challenges the sentence for his Alabama felony-murder conviction, this action is DISMISSED under 28 U.S.C. § 2244(b)(3)(A), as Peterson has failed to obtain the requisite order from the Eleventh Circuit Court of Appeals authorizing this court to consider his successive habeas application.

2. To the extent Peterson challenges his Alabama conviction for second-degree burglary, this action is DISMISSED with prejudice, as Peterson failed to submit his claims challenging the conviction within the one-year limitation period set out in 28 U.S.C. § 2244(d).

DONE this 29th day of September, 2014.

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