

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

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|--------------------------|---|--------------------------|
| MICHAEL DANIEL RUFF, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| vs. |) | CASE NO. 2:12-cv-410-WHA |
| |) | |
| STATE OF ALABAMA, et al, |) | (WO) |
| |) | |
| Respondents. |) | |

ORDER

Petitioner filed this action challenging the October 29, 2010, revocation of his probation by the Circuit Court of Montgomery County, Alabama. The Magistrate Judge has recommended dismissal of Petitioner's habeas petition as time barred under 28 U.S.C. § 2244(d)(1) (Doc. #26). Pending before the court is Petitioner's pleading captioned *Motion to Respond to Magistrate's Recommendation* (Doc. #27). The Clerk docketed the pleading as Petitioner captioned it, but the court will consider it as an Objection to the Recommendation.

Following an independent evaluation and *de novo* review, the court finds as follows:

Regarding the Magistrate Judge's determination that the petition is time-barred, Petitioner makes the same argument as he did in his response to the order to show cause why the petition should not be dismissed as time-barred. He contends that he submitted his Rule 32 petition challenging the 2010 revocation of his probation within the one-year limitation period under the State's procedural rules. As the Magistrate Judge explained in the Recommendation:

Whether Petitioner's Rule 32 petition was timely filed in state court, the limitation period applicable to the instant proceeding is the federal limitation period under § 2244(d). Under the federal limitation period found in § 2244(d), Petitioner's federal habeas petition is untimely for the reasons explained.

(Doc. #26 at 6)

The court finds that Petitioner's objection (#27) is without merit, and it is OVERRULED. The court ADOPTS the Recommendation of the Magistrate Judge, and it is hereby ORDERED that this petition for habeas corpus relief is DENIED as it was not filed within the limitation period established by applicable federal law, and the case is DISMISSED with prejudice.

DONE this 8th day of April, 2015.

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