

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

JEFFERY JAMES JACKSON,)
)
Petitioner,)
)
v.) CIVIL ACTION NO. 2:13-CV-111-WHA
)
CARTER DAVENPORT, WARDEN,)
and LUTHER STRANGE, ATTORNEY)
GENERAL,)
)
Respondents.)

ORDER

This case is before the court on Recommendation of the Magistrate Judge (Doc. #57) and the Plaintiff's Objections (Doc. #58, #66) to the Recommendation.¹

Following an independent evaluation and *de novo* review of the file in this case, the court finds that the objection is without merit and is due to be overruled.

In his objection, the Petitioner does not assert a challenge to the Magistrate Judge's determination that his habeas application is untimely. Petitioner's objection focuses on his argument for actual innocence of the crime of felony murder as a "gateway" through which the court may consider his claims that are otherwise time-barred.

Petitioner maintains there was an eyewitness at the crime scene known at the time that was not called to testify at trial. The Magistrate Judge addressed this claim and rejected Petitioner's arguments. In his Objection, Petitioner reiterates the same arguments he initially

¹ The court has construed the Petitioner's February 24, 2016 filing (Doc. #66) as an Objection to the Recommendation.

presented. The court agrees that the purported testimony of the uncalled eyewitness fails to establish his actual innocence.

In addition, the Petitioner objects to the Recommendation on the grounds that the court failed to conduct an evidentiary hearing, conduct discovery, and address all claims raised in his petition. The Magistrate Judge properly did not address these issues as it was determined that the petition was time-barred under 28 U.S.C. §2244(d).

Accordingly, the objection is OVERRULED, and the court ADOPTS the Recommendation of the Magistrate Judge.

It is hereby ORDERED that the petition for habeas corpus is DENIED as it was not filed within the period of limitation established by applicable federal law and the case is DISMISSED with prejudice.

Done this 17th day of March, 2016.

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