

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

KEVIN J. WALKER,)
)
Petitioner,)
)
v.) CASE NO. 2:14-CV-982-WKW
)
STATE OF ALABAMA, *et al.*,)
)
Respondents.)

ORDER

On April 2, 2015, the Magistrate Judge filed a Recommendation in this case. (Doc. # 23.) On April 15, 2015, Petitioner Kevin J. Walker filed a timely Objection. (Doc. # 24.) The court has conducted an independent and *de novo* review of those portions of the Recommendation to which objection is made. *See* 28 U.S.C. § 636(b).

In his Objection, Mr. Walker contends that the Magistrate Judge erred when he determined that Mr. Walker’s § 2254 habeas petition is time-barred. Mr. Walker’s Objection is largely devoted to restating arguments he proffered in his habeas pleadings, arguments which the Recommendation directly addressed. As the Magistrate Judge explained, Mr. Walker’s assertion that the evidence and arguments presented against him at trial did not match the felony murder charge in his indictment, but instead reflected that he was tried for “Murder I,” is insufficient

to establish a claim of actual innocence as to his convicted offense. Because Mr. Walker has failed to present a viable claim of actual innocence so as to relieve him from the operation of the one-year time bar applicable to § 2254 habeas petitions, his Objection (Doc. # 24) is due to be overruled.

Accordingly, it is ORDERED as follows:

1. Mr. Kevin J. Walker's Objection (Doc. # 24) is OVERRULED.
2. The Recommendation (Doc. # 23) is ADOPTED.
3. Mr. Kevin J. Walker's petition for writ of habeas corpus under 28 U.S.C. § 2254 is DENIED with prejudice.

A separate final judgment will be entered.

DONE this 7th day of May, 2015.

/s/ W. Keith Watkins

CHIEF UNITED STATES DISTRICT JUDGE