

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

NICHOLAS WELLS,)	
)	
Petitioner,)	
)	
v.)	CASE NO. 2:16-CV-780-WKW
)	[WO]
KENNETH PETERSON, <i>et al.</i> ,)	
)	
Respondents.)	

ORDER

On June 12, 2018, the Magistrate Judge filed a Recommendation (Doc. # 17) to which no timely objections have been filed. Upon an independent review of the record and upon consideration of the Recommendation, it is ORDERED that:

1. The Magistrate Judge’s Recommendation (Doc. # 17) is ADOPTED;
2. Petitioner Nicholas Wells’s 28 U.S.C. § 2254 petition is DISMISSED without prejudice to the extent it challenges his controlled substance convictions in Covington Circuit Court Case No. CC-03-414 as successive under 28 U.S.C. § 2244(b) because he failed to obtain the requisite order from the U.S. Court of the Appeals for the Eleventh Circuit authorizing a federal district court to consider his successive habeas application as required by § 2254(b)(3)(A); and

3. Mr. Well's § 2254 petition is DISMISSED with prejudice to the extent it challenges his convictions for breaking and entering a vehicle and first-degree receipt of stolen property in Covington Circuit Court Case No. CC-02-417 because he failed to file his petition within the one-year limitation period in 28 U.S.C. § 2244(d).

A final judgment will be entered separately.

On another note, the Clerk of the Court is DIRECTED to substitute Steven T. Marshall for Luther Strange as Defendant pursuant to Rule 25(d) of the Federal Rules of Civil Procedure.

DONE this 17th day of July, 2018.

/s/ W. Keith Watkins
CHIEF UNITED STATES DISTRICT JUDGE