

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

TIMOTHY LEE SUNDAY, #213453,)	
)	
Petitioner,)	
v.)	CASE NO. 3:09-cv-202-MEF
)	
LEE COUNTY CIRCUIT COURT, <i>et al.</i> ,)	
)	
Respondents.)	

ORDER

On April 21, 2009, the Magistrate Judge filed a Recommendation (Doc. #10) in this case to which no timely objections have been filed. Upon an independent review of the file in this case and upon consideration of the Recommendation of the Magistrate Judge, it is the

ORDER, JUDGMENT and DECREE of the court that:

1. The Recommendation of the Magistrate Judge is ADOPTED.

2. To the extent Sunday presents claims which substantively address federal grounds for setting aside his sexual abuse conviction, this action constitutes a second or successive habeas petition and, with respect to such claims, is DISMISSED in accordance with the provisions of 28 U.S.C. § 2244(b)(3)(A), as Sunday has failed to obtain the requisite order from the Eleventh Circuit Court of Appeals authorizing a federal district court to consider his successive habeas application.

3. The petitioner's motion for relief from judgment under Rule 60(b) of the Federal Rules of Civil Procedure is DENIED.

4. This case is DISMISSED with prejudice.

DONE this the 23rd day of June, 2009.

/s/ Mark E. Fuller
CHIEF UNITED STATES DISTRICT JUDGE