

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

DANNY L. SMITH, #176952,)	
)	
Petitioner,)	
)	
v.)	CIVIL ACTION NO. 3:11cv608-WHA
)	
J. C. GILES, et al.,)	(WO)
)	
Respondents.)	

ORDER

This case is before the court on the Recommendation of the Magistrate Judge (Doc. #24), entered on October 29, 2013, and Petitioner's objection thereto (Doc. #26).

The court has conducted an independent evaluation and *de novo* review of the file, and finds that the objection is without merit. The Petitioner continues to advance his claim that he could not be found guilty of a crime not charged in an indictment, but the record before the state court shows that he pled guilty to a lesser included offense. The state courts permitted this. He does not address the limitations problem except to argue that the limitations should not apply to a jurisdictional claim. The Petitioner's objection 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, and this case is DISMISSED with prejudice.

DONE this 21st day of November, 2013.

/s/ W. Harold Albritton

W. HAROLD ALBRITTON
SENIOR UNITED STATES DISTRICT JUDGE