

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

ALLEN DALE GOLDEN, #134190,)	
)	
Petitioner,)	
)	
vs.)	CASE NO. 3:12-cv-063-WHA
)	
J. C. GILES, et al.,)	(WO)
)	
Respondents.)	

ORDER

This case is before the court on the Recommendation of the Magistrate Judge (Doc. #23), and Petitioner’s Objections (Doc. #24). Following an independent evaluation and *de novo* review of this file, the court finds as follows:

1. This case is a 28 U.S.C. § 2254 petition for habeas corpus. The Petitioner correctly points out in his objections that the Magistrate Judge, in finding that the petition was untimely, referred to the time allowed by 28 U.S.C. § 2254(d)(1), rather than the correct statute setting a time limit for such petitions, i.e., 28 U.S.C. § 2244(d)(1). On review, the court finds that this was a mere scrivener’s error in the Recommendation and that the Magistrate Judge correctly analyzed the case under § 2244(d)(1). Therefore, the court SUSTAINS that objection, but only to the extent that the court will analyze the Recommendation by modifying it to refer to the correct statute.

2. The court finds all other objections to be without merit, and they are hereby OVERRULED.

Therefore, the court ADOPTS the Recommendation of the Magistrate Judge, with the modification that this court concludes that Golden's habeas petition is due to be dismissed with prejudice because he failed to file his § 2254 petition within the time allowed by 28 U.S.C. § 2244(d)(1), and it is

SO ORDERED.

DONE this 23rd day of March, 2015.

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