

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

JOSEPH MICHAEL WILSON,
#230202,

Petitioner,

v.

WILLIE THOMAS and STEVEN
T. MARSHALL,

Respondents.

CASE NO. 3:17-CV-242-WKW
[WO]

ORDER

Before the court is the Recommendation of the Magistrate Judge. (Doc. # 8.)

On May 12, 2017, Petitioner Joseph Michael Wilson filed a *pro se* Motion for Reconsideration of the Magistrate Judge's Recommendation, which is construed as an objection to the Recommendation. (Doc. # 11.) 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).

This is Mr. Wilson's second § 2254 petition challenging his 2001 and 2003 theft-by-deception convictions. *Wilson v. Giles*, No. 3:04-CV-1157-WKW (M.D. Ala. 2007); *Wilson v. Giles*, No. 3:04-CV-1149-MHT (M.D. Ala. 2006). This court lacks jurisdiction to hear successive applications for habeas relief, like Mr. Wilson's,

absent an order from the Eleventh Circuit authorizing consideration of the petition. 28 U.S.C. § 2244(b)(3)(A). Mr. Wilson furnished no such order from the Eleventh Circuit, and accordingly the Magistrate Judge recommended dismissal. (*See* Doc. # 8.)

Mr. Wilson objects to the Recommendation on the basis that he has “filed a motion for the U.S. MIDDLE DISTRICT COURT to be allowed to consider this above styled [sic] Habeas Corpus filing.” (Doc. # 11 at 1 (capitalization in original).) But filing such a motion, alone, does not authorize this court to hear Mr. Wilson’s successive petition. Rather, unless and until the Eleventh Circuit grants Mr. Wilson’s motion, “the district court lack[s] jurisdiction to grant the requested relief.” *Gilreath v. State Bd. of Pardons & Paroles*, 273 F.3d 932, 933 (11th Cir. 2001). Because Mr. Wilson has not provided such an order from the Eleventh Circuit, his objection is due to be overruled.¹

Accordingly, it is ORDERED as follows:

1. Petitioner Joseph Michael Wilson’s objection (Doc. # 11) is OVERRULED;

2. The Recommendation of the Magistrate Judge (Doc. # 8) is ADOPTED; and

¹ In his motion, Mr. Wilson also quotes the Alabama Code at some length. The quoted text does not provide this court with an independent basis of jurisdiction, and accordingly need not be considered to resolve Mr. Wilson’s objection.

3. This case is DISMISSED without prejudice for Petitioner's failure to obtain the requisite order from the Eleventh Circuit Court of Appeals authorizing a federal district court to consider his successive habeas application, *see* 28 U.S.C. § 2244(b)(3)(A).

A final judgment will be entered separately.

DONE this 30th day of May, 2017.

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