

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
EASTERN DIVISION**

DANNY G. LACEY,)	
)	
Petitioner,)	
)	
v.)	Case No.: 1:13-cv-00263-VEH-SGC
)	
LEEPOSEY DANIELS, Warden, et al.,)	
)	
Respondents.)	

MEMORANDUM OPINION

On February 22, 2016, the magistrate judge entered a report recommending this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 be denied as time-barred. (Doc. 12). On March 7, 2016, counsel for the petitioner, Danny G. Lacey, filed objections. (Doc. 13). For the reasons that follow, Petitioner's objections will be overruled and the report and recommendation will be adopted and accepted.

Petitioner's objections all rely on his argument that, because his trial counsel also represented him on direct appeal and during collateral post-conviction proceedings, his claims for ineffective assistance of counsel are not time-barred. (Doc. 13 at 1-2). As explained in the report and recommendation, this argument might be sufficient to excuse a procedural default of an ineffective assistance claim; however, it "has no application to the operation or tolling of the § 2244(d) statute of

limitations.” (Doc. 12 at 6) (citing *Chavez v. Sec’y, Fla. Dep’t of Corr.*, 742 F.3d 940, 943 (11th Cir. 2014)). Accordingly, all of Petitioner’s claims are time-barred.

After careful consideration of the record in this case, the magistrate judge’s report, and Petitioner’s objections, Petitioner’s objections are **OVERRULED**. The court **ADOPTS** the report of the magistrate judge and **ACCEPTS** her recommendations. In accordance with the recommendation, the court finds that the claims in the instant petition are due to be denied as time-barred. Additionally, for the reasons stated in the report and recommendation, a certificate of appealability will be denied, pursuant to Rule 11 of the *Rules Governing 2254 Proceedings*.

A separate order will be entered.

DONE and **ORDERED** this 9th day of March, 2016.



VIRGINIA EMERSON HOPKINS
United States District Judge