

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

EDWIN WALTER RUBIS,)	
)	
Petitioner,)	
)	
vs.)	Case No.: 1:13-cv-01576-CLS-SGC
)	
JOHN H. RATHMAN, Warden,)	
)	
Respondent.)	

MEMORANDUM OPINION

On August 15, 2016, the magistrate judge entered a report recommending the petition filed in this case be recharacterized as a filing under 28 U.S.C. § 2255, and that it be dismissed for lack of subject matter jurisdiction.¹ The magistrate judge further recommended that a certificate of appealability be denied. Petitioner was given fourteen days to file any objections to the magistrate judge’s report and recommendation. To date, no objection has been filed.

After careful consideration of the record in this case and the magistrate judge’s report and recommendation, the court hereby **ADOPTS** the report of the magistrate judge and **ACCEPTS** her recommendations. Accordingly, the court finds that the petition is due to be dismissed and the request for a certificate of appealability is due

¹ Doc. no. 12.

to be denied.

A separate order will be entered.

DONE this 20th day of September, 2016.

A handwritten signature in black ink, reading "Lynwood Smith". The signature is written in a cursive style with a large initial "L".

United States District Judge