

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

TIMOTHY HATTEN,

)

Petitioner,

)

)

v.

)

Case No.: 1:15-cv-02000-RDP-SGC

)

W.T. TAYLOR,

)

)

Respondent.

)

)

MEMORANDUM OPINION

This is an action on a petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2241 by Timothy Hatten, a federal prisoner proceeding *pro se*. (Doc. 1). The Magistrate Judge entered a Report and Recommendation on March 2, 2016, recommending Hatten’s § 2241 petition be re-characterized as a motion to vacate, set aside, or correct sentence brought pursuant to 28 U.S.C. § 2255 and dismissed for lack of jurisdiction. (Doc. 6).

Hatten has objected to the recommendation on the ground he has not consented to the exercise of dispositive jurisdiction by a Magistrate Judge pursuant to 28 U.S.C. § 636(c). (Doc. 7). This objection is **OVERRULED**. The Magistrate Judge has not exercised dispositive jurisdiction but, rather, submitted proposed findings of fact and recommendations for disposition of the instant petition to the undersigned, consistent with Section 636(b)(1)(B) and the General Order for Referral of Civil Matters to the United States Magistrate Judges of the Northern District of Alabama, dated January 2, 2015.

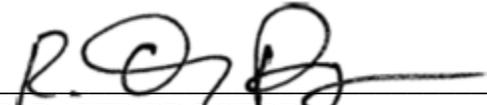
After careful, *de novo*, consideration of the record in this case and the Magistrate Judge’s Report, the court **ADOPTS** that Report and **ACCEPTS** the Magistrate Judge’s

recommendations. Accordingly, Hatten's Section 2241 petition is due to be re-characterized as a § 2255 motion and dismissed for lack of jurisdiction.

Furthermore, in accordance with Rule 11 of the *Rules Governing 2255 Proceedings*, a certificate of appealability is **DENIED**. A certificate of appealability may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). To make such a showing, a "petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong," *Slack v. McDaniel*, 529 U.S. 473, 484 (2000), or that "the issues presented were adequate to deserve encouragement to proceed further." *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003) (internal quotation omitted). Hatten has failed to make the requisite showing.

A final judgment will be entered.

DONE and **ORDERED** this April 5, 2016.



R. DAVID PROCTOR
UNITED STATES DISTRICT JUDGE