

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
EASTERN DIVISION

MICHAEL LAMAR HOWARD,)
)
 Petitioner)
)
 vs.)
)
 LEON BOLLING, III, Warden, and)
 THE ATTORNEY GENERAL OF)
 THE STATE OF ALABAMA,)
)
 Respondents)

Case No. 1:17-cv-01460-KOB-HNJ

MEMORANDUM OPINION

On August 30, 2017, the magistrate judge entered a report recommending that the court dismiss the petition pursuant to 28 U.S.C. § 2244(b)(2) or, in the alternative, pursuant to 28 U.S.C. § 2244(b)(3)(A) because the petitioner has already filed a habeas petition and did not obtain the necessary authorization from the Eleventh Circuit to file this one. (Doc. 4). On September 6, 2017, petitioner filed objections to the magistrate judge’s report and recommendation. (Doc. 5).

In his objections, the petitioner basically restates the same grounds found in his petition, but does not address the specific findings of the magistrate judge. Therefore, the court **OVERRULES** all of his objections.


After careful de novo review of the record in this case, including the magistrate judge's report and recommendation and the petitioner's objections, the court ADOPTS the report of the magistrate judge and ACCEPTS his recommendation to dismiss the habeas petition.

The court specifically finds that this court lacks jurisdiction to consider this "second or successive" petition because the Eleventh Circuit has not certified it as required by 28 U.S.C. § 2244(b)(3)(A). *See McCallum v. McDonough*, 257 F. App'x 157, 159 (11th Cir. 2007) ("A district court lacks jurisdiction to consider a 'second or successive' habeas corpus petition that has not been previously authorized by an appellate court.") (citing *Hill v. Hopper*, 112 F.3d 1088, 1089 (11th Cir. 1997)).

Alternatively, the petitioner has not made the requisite showing under 28 U.S.C. § 2244(b)(2) to avoid dismissal of any claims not previously raised.

The court will enter a separate order in conformity with this Memorandum Opinion.

DONE and ORDERED this 12th day of October, 2017.



KARON OWEN BOWDRE
CHIEF UNITED STATES DISTRICT JUDGE