

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

WESLEY SHONE COUEY,)	
)	
Petitioner,)	
)	
v.)	Case No.: 1:19-cv-01036-LSC-HNJ
)	
WARDEN MARY COOKS, et al., ¹)	
)	
Respondents.)	

MEMORANDUM OPINION

On June 9, 2020, the magistrate judge entered a report recommending the court grant Respondents’ motion for summary dismissal and dismiss Petitioner Couey’s petition without prejudice to allow him to exhaust all available state court remedies. (Doc. 9). Although the magistrate judge advised the parties of their right to file specific written objections within fourteen (14) days, no objections have been received by the court.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, the court **ADOPTS** the magistrate judge’s findings and **ACCEPTS** his recommendation. Respondents’

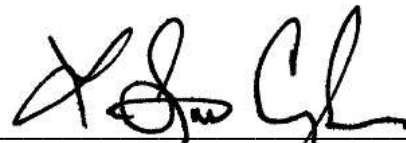
¹ Couey initially named Warden Gary Noe as a respondent in his capacity as Warden of Hamilton A & I Correctional Facility where Couey was incarcerated when he filed the petition. *See Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004); Rule 2(a), *Rules Governing Section 2254 Cases*. Couey is now incarcerated at Fountain Correctional Facility where Mary Cooks is Warden. Accordingly, Cooks is substituted for Noe as a respondent.

motion for summary dismissal is due to be granted and Couey's petition is due to be dismissed without prejudice to allow him to exhaust all available state court remedies.

This court may issue a certificate of appealability "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 quotations omitted). The court finds Couey's claims do not satisfy either standard.

The court will enter a separate order.

DONE AND ORDERED ON JUNE 30, 2020.



L. SCOTT COOGLER
UNITED STATES DISTRICT JUDGE