

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

DOUGLAS WILLIAM LAYTON, JR.,	)	
	)	
Petitioner,	)	
	)	
v.	)	Civil Action Number: 2:10-cv-02397-RBP
	)	
DAVID J. WISE and THE	)	
ATTORNEY GENERAL FOR THE	)	
STATE OF ALABAMA,	)	
	)	
Respondents.	)	

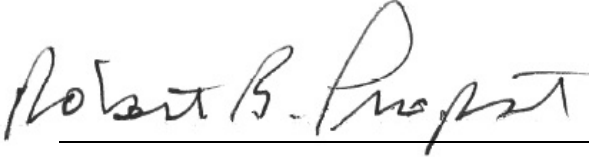
**MEMORANDUM OPINION**

On August 27, 2013, the magistrate judge entered a Report and Recommendation, doc. 13, recommending the petition for writ of habeas corpus be dismissed with prejudice. On September 16, 2013, Petitioner filed a motion to dismiss without prejudice, contending he could not prepare timely objections because he did not have access to the law library. Doc. 14. The court denied Petitioner’s motion, but provided him fourteen additional days to file objections. Doc. 15. On October 1, 2013, the court received an “informal letter” from Petitioner in which he explains he no longer will be pursuing motions in this court and requests this action be dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2). Doc. 16. Petitioner’s motion to dismiss *without prejudice* is due to be denied. Rule 41 does provide for dismissal without prejudice under certain circumstances, but such circumstances do not exist in this case. Petitioner did not file objections to the report and recommendation.

The court has considered the report and recommendation, and has reached an independent conclusion that the report and recommendation is due to be adopted and approved.

Accordingly, the court hereby adopts and approves the findings and recommendation of the magistrate judge as the findings and conclusions of this court. The petition for writ of habeas corpus is due to be DISMISSED. A separate Order will be entered.

DONE this 9<sup>th</sup> day of October, 2013.

A handwritten signature in black ink, reading "Robert B. Propst", written in a cursive style. The signature is positioned above a solid horizontal line.

**ROBERT B. PROPST**  
**SENIOR UNITED STATES DISTRICT JUDGE**