

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

| | | |
|-------------------------------|---|---------------------------------------|
| JACK LLOYD SWINEY, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | Case No: 2:12-cv-03575-CLS-JHE |
| |) | |
| WARDEN GARY HETZEL and |) | |
| THE ATTORNEY GENERAL |) | |
| FOR THE STATE OF |) | |
| ALABAMA, |) | |
| |) | |
| Respondents. |) | |

MEMORANDUM OPINION

On May 5, 2014, the magistrate judge entered a Report and Recommendation, (doc. 10), recommending that the petition for writ of *habeas corpus* be dismissed with prejudice as time barred. Petitioner has filed objections. (Doc. 11). The Court has considered the entire file in this action, together with the report and recommendation and objections thereto, 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.

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). This Court finds Petitioner’s claims do not satisfy either standard.

DONE this 27th day of May, 2014.


United States District Judge