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

RICHARD VILLAR,)
)
    Petitioner,)
)
v.)
)   Case No.: 2:15-cv-00198-LSC-SGC
W.T. TAYLOR, et al.,)
)
    Respondents.)
)

MEMORANDUM OPINION

On February 1, 2018, the magistrate judge entered a report recommending Villar's petition for a writ of habeas corpus brought pursuant to 28 U.S.C. § 2241 be dismissed without prejudice for lack of subject matter jurisdiction. (Doc. 22). Although Villar was advised of his right to object, he did not timely file written objections, and the court adopted the report of the magistrate judge and accepted her recommendation. (Doc. 23). The court dismissed Villar's petition without prejudice for lack of jurisdiction. (Doc. 24).
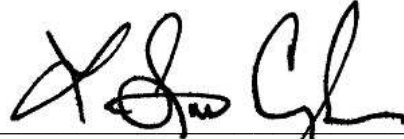
On April 19, 2018, Villar filed objections to the report and recommendation. (Doc. 25). Acknowledging his objections are untimely, Villar states he "just recently" received the report and recommendation of the magistrate judge because he was transferred to another institution and was in the Special Housing Unit where "it was very difficult to have his legal material in order to inform this Court the matter." (*Id*.). For good cause shown, the court **WITHDRAWS** its earlier memorandum opinion and final judgment and considers the objections filed by Villar.

That being said, none of the objections made by Villar overcome the binding Eleventh Circuit precedent holding a § 2255 motion is not "inadequate or ineffective" to test the legality of a petitioner's detention. *McCarthan v. Director of Goodwill Industries-Suncoast*, 851 F.3d 1076 (11th Cir. 2017). Petitioner's objections are **OVERRULED**, and the court **ADOPTS** the report

of the magistrate judge and **ACCEPTS** her recommendations.   In accordance with the recommendation, the court finds the petition is due to be dismissed without prejudice for lack of subject matter jurisdiction.

A separate order will be entered.

DONE AND **ORDERED** ON APRIL 26, 2018.

_____
L. SCOTT COOGLER
UNITED STATES DISTRICT JUDGE

160704