

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

RICHARD MORRIS CLARK,)	
)	
Petitioner,)	
)	
v.)	Case No.: 2:15-cv-01515-LSC-JHE
)	
CARLA JONES, et al.,)	
)	
Respondents.)	

MEMORANDUM OPINION

The magistrate judge filed a report on June 28, 2018, recommending that the petition for writ of habeas corpus be dismissed with prejudice. (Doc. 20). The magistrate judge advised the parties of their right to file specific written objections within fourteen days. (*Id.*). On July 18, 2018, the petitioner moved for leave to amend the petition. (Doc. 21). On July 26, 2018, the petitioner filed objections to the report and recommendation, attaching another copy of his motion for leave to amend and stating that he “rest[s] on the attached motion for leave to amend” as his objections. (Doc. 23). The petitioner also requests an extension of time to address the report and recommendation. (*Id.* at 1). Finally, on August 1, 2018, the petitioner filed an additional set of objections to the report and recommendation. (Doc. 24).

All of the petitioner’s responses to the report and recommendation, whether or not styled as “objections,” were filed after the deadline for the petitioner to object to the report and recommendation. Further, the petitioner’s request for an extension of time to respond to the report and recommendation comes two weeks after the petitioner’s response deadline, and the petitioner offers neither a basis for why he should be granted additional time nor a reason for the untimeliness of his request. Therefore, the petitioner’s request for additional time is **DENIED**,

and to the extent the petitioner's responses present objections to the report and recommendation, they are **OVERRULED** as untimely.

Further, to the extent each of these documents can be construed as objections, they are meritless. The petitioner's current motion for leave to amend, (doc. 21), which does not address the report and recommendation at all and instead simply repeats the claims asserted in the original petition, is substantially similar to the motion he filed on March 7, 2018, (doc. 19). The magistrate judge correctly determined that the motion for leave to amend was repetitive of the original petition and denied the petitioner leave to amend. (Doc. 20 at 5). The petitioner's second set of objections are a rehash of the petitioner's motion for leave to amend; the only purported error by the magistrate judge that the petitioner raises is that the magistrate judge denied the motion for leave to amend. (*See* doc. 24 at 5). As stated above, the magistrate judge did not err when he denied that motion. Therefore, the petitioner's motion for leave to amend, (doc. 21), is **DENIED**, and petitioner's objections are **OVERRULED**.

The court has considered the entire file in this action, together with 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.

The 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 AND ORDERED ON AUGUST 10, 2018.

A handwritten signature in black ink, appearing to read "L. Scott Coogler", is written over a horizontal line. The signature is stylized and cursive.

L. SCOTT COOGLER
UNITED STATES DISTRICT JUDGE

160704