

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

JAMES EDWARD SUTTLE,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No.: 2:17-cv-01913-LSC-HNJ
	)	
DWAYNE ESTES, et al.,	)	
	)	
Respondent.	)	

**MEMORANDUM OPINION**

James Edward Suttle, an Alabama state prisoner proceeding *pro se*, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. (Doc. 1). On October 30, 2019, the magistrate judge entered a report recommending this action be dismissed without prejudice for lack of jurisdiction because the petition is successive, and Suttle has not obtained authorization from the Eleventh Circuit Court of Appeals to proceed as required by 28 U.S.C. § 2244(b)(3)(A). (Doc. 10). Suttle filed timely objections to the magistrate judge’s report and recommendation. (Doc. 11).

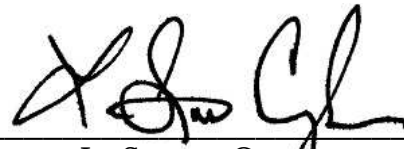
In his objections, Suttle restates his claims that he was wrongfully convicted of capital murder and sentenced to life without parole. (Doc. 11 at 1-2). However, Suttle does not address the magistrate judge’s finding that his petition is successive under 28 U.S.C. § 2244(b)(3)(A) and that he failed to obtain leave from the Eleventh Circuit before filing a second or successive petition in this court. *See Magwood v.*

*Patterson*, 561 U.S. 320, 330-31 (2010) (A petitioner “must obtain leave from the court of appeals before filing [a second or successive petition] with the district court.”) (citing 28 U.S.C. § 2244(b)(3)(A)). Therefore, the court **OVERRULES** Suttle’s objections.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, and the objections thereto, the court **ADOPTS** the magistrate judge’s findings and **ACCEPTS** the recommendation. Suttle’s petition for a writ of habeas corpus is due to be dismissed without prejudice for lack of jurisdiction because he has not received authorization from the Eleventh Circuit to file a second or successive habeas petition. *See* 28 U.S.C. § 2244(b)(3)(A). Additionally, a certificate of appealability is due to be denied.

The court will enter a separate order.

**DONE AND ORDERED** ON DECEMBER 5, 2019.



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L. SCOTT COOGLER  
UNITED STATES DISTRICT JUDGE

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