

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

EARNEST J. FILES, JR.,)

Petitioner,)

v.)

WARDEN LEON BOLLING, III.,)

Respondent.)

Case No.

2:18-cv-00279-AKK-HNJ

MEMORANDUM OPINION AND ORDER

The magistrate judge filed a report on April 9, 2018, recommending the petition for writ of habeas corpus filed by petitioner Earnest J. Files, Jr., be dismissed without prejudice to allow him to pursue and exhaust available state remedies. (Doc. 2). The petitioner filed a 28 page “response” to the report and recommendation on April 23, 2018. (Doc. 3).

The petitioner does not dispute the existence of state remedies available to him nor does he dispute his failure to exhaust those remedies. *Id.* Instead, the response details constitutional errors he contends occurred during the prosecution of the underlying convictions and sentence for which he seeks habeas relief. *Id.* at 1-20. The petitioner also includes a copy of an order from the United States District Court for the Middle District of Alabama regarding a 42 U.S.C. § 1983

action he filed for civil rights violations at Kilby Correctional Facility. *Id.* at 21-27.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the response thereto, the magistrate judge's report is hereby **ADOPTED** and the recommendation is **ACCEPTED**. Accordingly, in light of the petitioner's failure to exhaust his state law remedies, his petition, doc. 1, is **DISMISSED WITHOUT PREJUDICE**. The Clerk is **DIRECTED** to close this file.

DONE the 25th day of April, 2018.



ABDUL K. KALLON
UNITED STATES DISTRICT JUDGE