

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

JONATHAN GODFREY,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No.: 2:19-cv-01550-KOB-
	)	HNJ
STATE OF ALABAMA, et al.,	)	
	)	
Respondents.	)	

**MEMORANDUM OPINION**

Jonathan Godfrey, 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 31, 2019, the magistrate judge entered a report recommending this action be dismissed without prejudice for lack of jurisdiction because the petition is successive, and Godfrey 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. 4). Although the magistrate judge advised Godfrey of his right to file specific written objections within fourteen days, the court has received no objections. Instead, Godfrey filed an application for a certificate of appealability and motion to proceed on appeal *in forma pauperis* on November 20, 2019. (Doc. 5).

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, the court **ADOPTS** the magistrate judge's findings and **ACCEPTS** the recommendation. Godfrey's petition

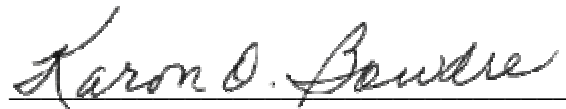
for a writ of habeas corpus is due to be dismissed without prejudice for lack of jurisdiction because he has not received authorization from the Eleventh Circuit to file a second or successive habeas petition. *See* 28 U.S.C. § 2244(b)(3)(A).

Additionally, Godfrey's application for a certificate of appealability is due to be denied. A certificate of appealability may issue "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). In the circumstances presented here, a certificate of appealability is not warranted. The court advises Godfrey that he may file a request for a certificate of appealability directly with the Eleventh Circuit Court of Appeals.

To the extent Godfrey moves to proceed on appeal *in forma pauperis*, that request is due to be denied as premature because Godfrey filed it before this court's final order and before he filed a notice of appeal. Godfrey may renew his motion to proceed on appeal *in forma pauperis* should he file a timely notice of appeal.

The court will enter a separate Final Order.

DONE and ORDERED this 26<sup>th</sup> day of November, 2019.

Handwritten signature of Karon O. Bowdre in black ink, written in a cursive style.

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**KARON OWEN BOWDRE**  
CHIEF UNITED STATES DISTRICT JUDGE