

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

**ANTHONY KELLY,**

**Petitioner,**

**v.**

**DEPUTY WARDEN JEFFERY  
BALDWIN, et al.,**

**Respondents.**

**Case No.: 2:20-cv-00118-RDP-HNJ**

**MEMORANDUM OPINION**

On December 3, 2020, the Magistrate Judge entered a Report and Recommendation recommending the court dismiss Anthony Kelly's petition for a writ of habeas corpus without prejudice as unexhausted. (Doc. 15). Although the Magistrate Judge advised the parties of their right to file specific written objections within fourteen days, no objections have been received by the court.


Having carefully reviewed and considered *de novo* all the materials in the court file, including the Report and Recommendation, the court hereby **ADOPTS** the Report of the Magistrate Judge and **ACCEPTS** his Recommendation. In accordance with the Recommendation, the court finds the petition is due to be dismissed without prejudice as unexhausted.

This 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). The court finds Kelly’s claims do not satisfy either standard.

The court will enter a separate Final Judgment.

**DONE** and **ORDERED** this January 4, 2021.

  
**R. DAVID PROCTOR**  
UNITED STATES DISTRICT JUDGE