

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
NORTHWESTERN DIVISION

THOMAS JAMES ROBERTS, )

Petitioner )

vs. )

Case No. 3:13-cv-01397-KOB-HGD

WILLIE THOMAS, Warden, and )

THE ATTORNEY GENERAL OF )

THE STATE OF ALABAMA, )

Respondents )

**MEMORANDUM OPINION**

On August 14, 2013, the magistrate judge entered his report and recommendation (doc. 4), recommending that the court dismiss this action pursuant to 28 U.S.C. § 2244(b)(1) as a successive application for habeas relief. The magistrate judge also recommends that the court dismiss the action pursuant to 28 U.S.C. § 2244(b)(3)(A) because the Petitioner failed to secure an Order from the Eleventh Circuit allowing him to file a successive petition. On August 23, 2013, the Petitioner filed objections to the magistrate judge’s report and recommendation. (Doc. 5).

The court has conducted a de novo review of the entire record in this case, including the magistrate judge's report and recommendation and the petitioner's objections. The court hereby ADOPTS the report of the magistrate judge, with the exception of noting that the Petitioner filed this habeas corpus petition on July 26, 2013 as noted in his objections, rather than June 4, 2013 as stated in the report. The court further ACCEPTS the magistrate judge's recommendations that the petition for writ of habeas corpus is due to be dismissed pursuant to 28 U.S.C. § 2244(b)(1) and for failure to comply with 28 U.S.C. § 2244(b)(3)(A). The court finds that the Petitioner's habeas petition is successive pursuant to 28 U.S.C. § 2244(b)(1) and that he failed to obtain the Eleventh's Circuit's permission before filing this successive petition in violation of 28 U.S.C. § 2244(b)(3)(A).

The court will enter a separate Order in conformity with this Memorandum Opinion.

DONE and ORDERED this 28th day of August, 2013.

  
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KARON OWEN BOWDRE  
UNITED STATES DISTRICT JUDGE