

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

BRYAN PATRICK GIST )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 THE STATE OF ALABAMA and THE )  
 ATTORNEY GENERAL FOR THE )  
 STATE OF ALABAMA, )  
 )  
 Respondents. )

Case Number: 3:14-cv-00050-KOB-JHE

**MEMORANDUM OPINION**

On January 17, 2017, the magistrate judge entered a Report and Recommendation (doc. 20), recommending that the petition for writ of habeas corpus be dismissed with prejudice. No objections have been filed.<sup>1</sup> The court has considered the entire file in this action, together with the report and recommendation, and has reached an independent conclusion that the report and recommendation is due to be adopted and approved.

Accordingly, the court hereby adopts and approves the findings and recommendation of the magistrate judge as the findings and conclusions of this court. The petition for writ of habeas corpus is due to be DISMISSED. A separate Order will be entered.


This court may issue a certificate of appealability “only if the applicant has a 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,

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<sup>1</sup> On January 23, 2017, the United States Postal Service returned the report and recommendation marked as “undeliverable.” (Doc. 21). Gist has not fulfilled his objection to keep the court apprised of his current address.

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). This Court finds Petitioner’s claims do not satisfy either standard.

DONE and ORDERED this 9<sup>th</sup> day of February, 2017.

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