

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
MIDDLE DIVISION**

TIMOTHY BURNS, in proper	)	
Plaintiff, Ref A.B., Minor Child,	)	
	)	
Petitioner,	)	
	)	
v.	)	CIVIL ACTION NO.
	)	4:17-cv-1784-LSC-JEO
ACTING JUDGE ROBERT L. MINOR,	)	
	)	
Respondent.	)	

**MEMORANDUM OPINION**

This civil action was initiated on October 23, 2017, by Timothy Burns on behalf of his minor daughter, A.B., based on a pleading Burns has styled, “A Writ of Habeas Corpus.” (Doc.<sup>1</sup> 1). On November 3, 2017, the magistrate judge to whom the case was referred entered a Report and Recommendation (“R&R”) pursuant to 28 U.S.C. § 636(b), FED. R. CIV. P. 72(b)(1), recommending that the Burns’s petition be dismissed for lack of jurisdiction, because its allegations indicate that A.B. is not “in custody” for purposes of the federal habeas corpus statutes. (Doc. 3). The court advised Burns that he might file objections to the

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<sup>1</sup>References to “Doc(s). \_\_\_” are to the document number(s) of the pleadings, motions, and other materials in the court file, as compiled and designated on the docket sheet by the Clerk. Unless otherwise noted, pinpoint citations are to the page of the electronically filed document on the court’s CM/ECF system, which may not correspond to pagination on the original “hard copy” presented for filing.

magistrate judge's R&R, but the time in which he was required to do so has expired with no objections having been filed. (*See* Docs. 3, 5).

Having carefully reviewed and considered *de novo* all the materials in the court file, including the magistrate judge's Report and Recommendation, the court is of the opinion that the magistrate judge's findings are due to be and are hereby **ADOPTED** and his recommendation is **ACCEPTED**. As a result, the petition for writ of habeas corpus is due to be **DISMISSED WITHOUT PREJUDICE**, for lack of jurisdiction. A separate final order will be entered.

Done this 6<sup>th</sup> day of December 2017.

A handwritten signature in black ink, appearing to read 'L. Scott Coogler', written over a horizontal line.

L. Scott Coogler  
United States District Judge  
[160704]