

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

VINCENT EARL BOGLIN,)
)
 Petitioner,)
)
 v.)
)
 KENNETH JONES; and the)
 ATTORNEY GENERAL OF THE)
 STATE OF ALABAMA,)
)
 Respondents.)

Case No. 5:11-cv-3862-RDP-PWG

MEMORANDUM OPINION AND ORDER

The Magistrate Judge filed a Report and Recommendation on December 27, 2013 (Doc. # 11), recommending that the petition for writ of habeas corpus, brought pursuant to 28 U.S.C. § 2254 by Petitioner, Vincent Earl Boglin (“Boglin”), be denied. After the Magistrate Judge granted Boglin’s motion for extension of time to respond, Boglin filed objections (Doc. # 23) dated January 28, 2014.¹ The court will treat such filing as an objection to the Magistrate Judge’s Report and Recommendation or, in the alternative, as a motion.

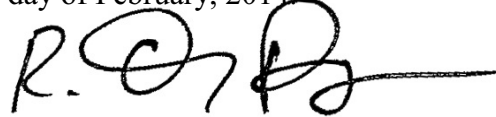
Boglin’s objections consist of restatements of the arguments he has already presented. These arguments were considered and rejected by the Magistrate Judge, and Boglin’s objections add nothing new to the equation. Accordingly, these objections are due to be overruled. Additionally, in accordance with Rule 11(a) of the *Rules Governing Section 2254 Cases*, the court must issue or deny a certificate of appealability. A certificate of appealability may only issue if the applicant has

¹ The order granting the extension required Boglin to file his objections by January 30, 2014. The Clerk received Boglin’s objections on February 7, 2014. Under the so-called “prison mailbox rule,” the court will treat these objections as timely-filed. Just prior to the Clerk’s receipt of Boglin’s objections, the undersigned entered: (1) a memorandum opinion (Doc. # 21) adopting and accepting the Report and Recommendation; and (2) a final order denying the Petition (Doc. # 22). Upon receipt of the objections, he court withdrew those entries by margin order.

made a “substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). For the reasons explained in the Report and Recommendation, Boglin has not met this standard. Accordingly, the certificate of appealability is hereby **DENIED**. Boglin is advised that he may seek a certificate of appealability directly from the Court of Appeals for the Eleventh Circuit.

Having carefully reviewed and considered *de novo* all the materials in the file, 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**. To the extent that the Boglin’s filing (Doc. # 23), is construed as interposing objections to the Report and Recommendation, such objections are hereby **OVERRULED**. To the extent that Boglin’s filing (Doc. #23) is construed as a motion, it is hereby **DENIED**. Accordingly, the petition for writ of habeas corpus is due to be denied. A Final Judgment will be entered.

DONE and **ORDERED** this 10th day of February, 2014



R. DAVID PROCTOR
UNITED STATES DISTRICT JUDGE