

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

KENNETH WILSON,)
)
Petitioner,)
vs.)
)
GARY HETZELL, Warden; and the)
ATTORNEY GENERAL OF)
THE STATE OF ALABAMA,)
)
Respondents.)

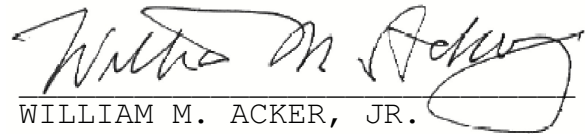
Case No. 2:12-cv-3908-WMA-TMP

MEMORANDUM OPINION

The magistrate judge filed his report and recommendation on November 22, 2013, recommending dismissal of petitioner's 28 U.S.C. § 2254 petition for *habeas corpus* relief. Petitioner filed a document he titled as a motion for reconsideration, which the court deems to be objections, on December 9, 2013. Having now carefully considered *de novo* all the materials in the court file, including the report and recommendation, the court is of the opinion that the magistrate judge's report is due to be ADOPTED and the recommendation ACCEPTED. Petitioner also has filed a motion to stay, asserting that he wishes to present "newly discovered evidence" to the state courts through a Rule 32 petition. The purported newly discovered evidence, however, could not demonstrate actual innocence. Thus, there is no need for a stay to allow the claim to be adjudicated in the state courts. The motion to stay (doc. 13) is DENIED.

Accordingly, the petition for *habeas corpus* relief pursuant to 28 U.S.C. § 2254 in the above-styled cause will be denied and dismissed with prejudice by separate order.

DONE the 16th day of December, 2013.

A handwritten signature in black ink, appearing to read "William M. Ackers, Jr.", written over a horizontal line.

WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE