

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

WILSON GURLEY,)	
)	
Petitioner,)	
)	
v.)	5:13-cv-00864-VEH-JEO
)	
LEEPOSEY DANIELS, Warden, and the)	
ATTORNEY GENERAL FOR THE)	
STATE OF ALABAMA,)	
)	
Respondents.)	

MEMORANDUM OPINION

This is a habeas corpus case brought pursuant to 28 U.S.C. § 2254 by Wilson Gurley (“Petitioner”), an Alabama state prisoner serving a life sentence following his plea of guilty in 1994 to a charge of non-capital murder. (Doc.^{1/} 1 (“Petition” or “Pet.”)). In his petition, filed by his retained counsel, Gurley claims that his conviction violates the Equal Protection and Due Process Clauses of the Fourteenth Amendment because the state trial court failed to appoint him two attorneys to defend him when he was facing a capital murder charge. On August 23, 2013, the magistrate judge entered a report recommending that the petition be denied and that the action be dismissed with prejudice, both because it is barred by the statute of limitations and because the Petition fails to state a viable claim for habeas relief on the merits. (Doc. 6). No objections have been filed to the magistrate judge’s report and recommendation, and the period in which to have done so has expired.

Having carefully reviewed and considered *de novo* all the materials in the court file,

^{1/}References herein to “Doc(s). ___” are to the document numbers assigned by the Clerk of the Court to the pleadings, motions, and other materials in the court file, as reflected on the docket sheet.

including the magistrate judge's report and recommendation, the court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and his recommendation is ACCEPTED. Accordingly, the petition is due to be DENIED, and this action is due be DISMISSED WITH PREJUDICE.

Further, the district court must issue or deny a certificate of appealability under 28 U.S.C. § 2253(c) when it enters a final order adverse to an applicant seeking habeas relief pursuant to 28 U.S.C. § 2254. Rule 11(a), Rules Governing § 2254 Cases. Because the petition fails to present any issue that is fairly debatable among reasonable jurists, the court will deny a certificate of appealability. *See Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000).

A separate final judgment will be entered.

DONE, this the 30th day of September, 2013.



VIRGINIA EMERSON HOPKINS
UNITED STATES DISTRICT JUDGE