

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
NORTHEASTERN DIVISION

DERRICK WAYNE FULWISE, )

Petitioner )

vs. )

Case No. 5:13-cv-01767-KOB-HGD

GARY HETZEL, Warden, )

and THE ATTORNEY GENERAL )

OF THE STATE OF ALABAMA, )

Respondents )

**MEMORANDUM OPINION**

The magistrate judge entered his report and recommendation on March 19, 2015, recommending that the court deny the petitioner’s § 2254 habeas petition. (Doc. 22). The court gave the petitioner two extensions of time, to May 1, 2015, and May 29, 2015, in which to file objections. (Docs. 24 & 26). However, no party has filed any objections to the magistrate judge’s report and recommendation.

After careful de novo review of the entire record in this case, including the magistrate judge’s report and recommendation, the court hereby ADOPTS the report of the magistrate judge and ACCEPTS his recommendation that the court deny the petition for writ of habeas corpus.

Pursuant to Rule 11 of the *Rules Governing § 2254 Cases*, the court has evaluated the claims within the petition for suitability for the issuance of a certificate of appealability (COA). *See* 28 U.S.C. § 2253.

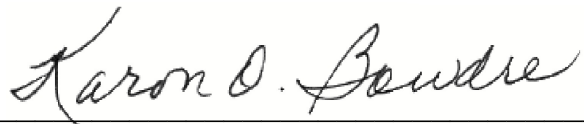
Rule 22(b) of the Federal Rules of Appellate Procedure provides that when a petitioner appeals, the district judge who rendered the judgment “shall” either issue a COA or state the reasons why such a certificate should not issue. Pursuant to 28 U.S.C. § 2253(c)(2), a COA may issue only when the petitioner “has made a substantial showing of the denial of a constitutional right.” The petitioner can establish this showing by demonstrating that “reasonable jurists could debate whether (or for that matter, agree that) the petition should have been resolved in a different manner,” or that the issues were “adequate to deserve encouragement to proceed further.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (citing *Barefoot v. Estelle*, 463 U.S. 880, 893 & n.4 (1983)). For procedural rulings, a COA will issue only if reasonable jurists could debate whether the petition states a valid claim of the denial of a constitutional right and whether the court’s procedural ruling was correct. *Id.*

The court finds that reasonable jurists could not debate its resolution of the claims presented in this habeas corpus petition. For the reasons stated in the

magistrate judge's report and recommendation, the court DECLINES to issue a COA with respect to any claims.

The court will enter a separate Order in conformity with this Memorandum Opinion.

DONE and ORDERED this 25th day of June, 2015.

A handwritten signature in cursive script that reads "Karon O. Bowdre". The signature is written in black ink and is positioned above a horizontal line.

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KARON OWEN BOWDRE  
CHIEF UNITED STATES DISTRICT JUDGE