

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

SHERMAN NATHANIEL MCBRYAR,)
)
Petitioner,)
)
v.)
)
WARDEN BILLUPS and THE)
ATTORNEY GENERAL FOR THE)
STATE OF ALABAMA,)
)
Respondents.)

Case Number: 5:14-cv-01027-LSC-JHE

MEMORANDUM OPINION

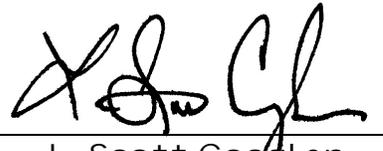
On June 26, 2015, the magistrate judge entered a Report and Recommendation, (doc. 9), recommending that this petition for writ of habeas corpus be dismissed with prejudice. Petitioner Sherman Nathaniel McBryar filed objections. (Doc. 10).

McBryar’s objections raise all of the same arguments as his previous arguments before the magistrate judge regarding evidence of child abuse by another person, (*id.* at 2-5), and of the ineffective assistance of his counsel, (*id.* at 5-6). He does not point to any particular errors in the magistrate judge’s findings of fact or conclusions of law.

The court has considered the entire file in this action, together with the report and recommendation, and has reached an independent conclusion that the report and recommendation is due to be adopted and approved. Accordingly, the court hereby adopts and approves the findings and recommendation of the magistrate judge as the findings and conclusions of this court. The petition for writ of habeas corpus is due to be **DISMISSED** and McBryar’s motion for discovery and funds for an attorney and expert **DENIED**. A separate Order will be entered.

This Court may issue a certificate of appealability “only if the applicant has a made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). To make such a showing, a “petitioner must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong,” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000), or that “the issues presented were adequate to deserve encouragement to proceed further,” *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003) (internal quotations omitted). This Court finds Petitioner’s claims do not satisfy either standard.

Done this 23rd day of July 2015.

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]