

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

DAVID LESLIE POWELL, JR.,)	
)	
Petitioner,)	
)	
v.)	Case No.: 5:18-cv-1078-MHH-HNJ
)	
DEWAYNE ESTES, et al.,)	
)	
Respondents.)	


MEMORANDUM OPINION

Pursuant to 28 U.S.C. § 2254, David Leslie Powell, Jr., an Alabama state prisoner proceeding *pro se*, filed a petition and supplemental petition for a writ of habeas corpus. (Docs. 1, 29). On November 25, 2019, the magistrate judge entered a report in which he recommended dismissal of this matter with prejudice because Mr. Powell has not exhausted his state court remedies. (Doc. 35). The magistrate judge advised the parties of their right to file specific written objections within 14 days. The Court has not received objections from any party.

A district court “may accept, reject, or modify, in whole or part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). A district court reviews legal conclusions in a report *de novo* and reviews for plain error factual findings to which no objection is made. *Garvey v. Vaughn*, 993 F.2d 776, 779 n. 9 (11th Cir. 1993); *see also LoConte v. Dugger*, 847 F.2d 745, 749 (11th Cir. 1988); *Macort v. Prem, Inc.*, 208 Fed. Appx. 781, 784 (11th Cir. 2006).

Having reviewed the materials in the habeas record, the Court adopts the magistrate judge's findings and accepts his recommendation. By separate order, the Court will dismiss Mr. Powell's petition and supplemental petition for a writ of habeas corpus with prejudice as unexhausted and procedurally defaulted. This Court will not issue a certificate of appealability, but Mr. Powell may request a certificate from the Eleventh Circuit Court of Appeals if he wishes to appeal this decision. Fed. R. App. P. 22; Rule 11 of the Rules Governing Section 2254 and 2255 Cases.

DONE this 30th day of December, 2019.



MADELINE HUGHES HAIKALA
UNITED STATES DISTRICT JUDGE