

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

LARRY LEE BUTLER,)	
)	
Petitioner,)	
)	
v.)	6:15-cv-0162-WMA-JEO
)	
)	
WARDEN DEWAYNE ESTES,)	
et al.,)	
)	
Respondents.)	

MEMORANDUM OPINION

This is an action on a petition for a writ of habeas corpus filed pursuant to 28 U.S.C. §§ 2241 and 2254 by Larry Lee Butler (“Petitioner” or “Butler”), an Alabama state prisoner acting *pro se*. (Doc.¹ 1). On April 6, 2015, the magistrate judge entered a report pursuant to 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(1) recommending that the action be dismissed as untimely under 28 U.S.C. § 2244(d)(1). (Doc. 8, (“Report and Recommendation” or “R&R”). Butler has now filed an Objection to the R&R. (Doc. 9 (“Objection or “Obj.”)).

About half of Butler’s 21-page objection is based on an assumption that the magistrate judge, rather than an Article III district judge, has ruled on his § 2254 habeas application. (*See* Obj. at 1-11). That line of argument is misguided, of course, because the magistrate judge has merely made a *recommendation* that the habeas application be denied as time barred; the final,

¹References herein to “Doc(s). ___” are to the document numbers assigned by the Clerk of the Court to the materials in the court file, as reflected on the docket sheet in the CM/ECF system. Unless otherwise noted, Pinpoint citations herein are to the page of the electronically filed document, which may not correspond to the pagination on the original “hard copy.”

formal decision as to any disposition lies with the undersigned district judge. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b)(3); *Thomas v. Arn*, 474 U.S. 140, 153 (1985); *Williams v. McNeil*, 557 F.3d 1287, 1291 (2009).

Butler also makes a number of other arguments. It will suffice to say, however, that those are adequately addressed by the magistrate judge's Report and Recommendation. Having carefully reviewed and considered *de novo* all the materials in the court file, including the magistrate judge's Report and Recommendation and Petitioner's Objection thereto, the court is of the opinion that the magistrate judge's findings are due to be and are hereby **ADOPTED** and his recommendation is **ACCEPTED**. Petitioner's objections are **OVERRULED**. As a result, the petition for writ of habeas corpus is due to be denied and this action is due to **DISMISSED WITH PREJUDICE**, as barred by the statute of limitations. Further, because the petition does not present issues that are debatable among jurists of reason, a certificate of appealability is also due to be **DENIED**. *See* 28 U.S.C. § 2253(c); *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000); Rule 11(a), RULES GOVERNING § 2254 PROCEEDINGS. A separate Final Judgment will be entered.

DONE, this the 24th day of April, 2015.


WILLIAM M. ACKER
UNITED STATES DISTRICT JUDGE