

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

JUSTIN KYLE MURRAY,)	
)	
Petitioner,)	
)	
v.)	Case No. 6:21-cv-000039-LCB-JHE
)	
SHERIFF NICK SMITH,)	
)	
Respondent.)	

MEMORANDUM OPINION

Petitioner Justin Kyle Murray filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. (Doc. 1). On January 12, 2022, the magistrate judge entered a report recommending the court grant the respondent’s motion for summary dismissal, (Doc. 8), and dismiss the petition without prejudice as moot and for failure to exhaust state remedies. (Doc. 12). The magistrate judge advised Murray of his right to file objections to the report and recommendation within 14 days. (*Id.* at 6–7).

On February 2, 2022, the report and recommendation, mailed to Murray at the Walker County Jail, was returned as undeliverable and with a notation that he was no longer incarcerated there. (Doc. 13 at 1). A review of the Alabama Department of Corrections’ website indicated Murray had been transferred to Kilby Correctional Facility. On February 4, 2022, the magistrate judge directed the Clerk to resend a copy of the report and recommendation to Murray at his current address and

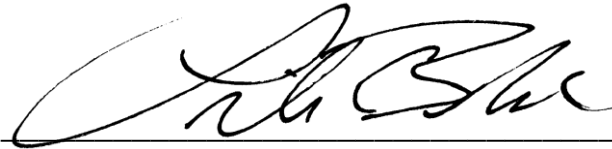
provided Murray 14 days to file objections to the report and recommendation. (Doc. 14 at 1–2). More than 14 days have elapsed, and the court has not received any objections to the report and recommendation.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, the court **ADOPTS** the magistrate judge’s report and **ACCEPTS** his recommendation. The respondent’s motion for summary dismissal, (doc. 8), is due to be granted and the petition is due to be dismissed without prejudice.

This court may issue a certificate of appealability “only if the applicant has 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). The court finds Murray’s claims do not satisfy either standard.

The court will enter a separate Final Order.

DONE and **ORDERED** this February 24, 2022.

A handwritten signature in black ink, appearing to read "L.C. Burke", written over a horizontal line.

LILES C. BURKE
UNITED STATES DISTRICT JUDGE