

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

CATHY DIANE FERGUSON,)	
)	
Petitioner,)	
)	
v.)	Case No. 7:14-cv-01501-VEH-SGC
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

MEMORANDUM OPINION

On November 4, 2014, the magistrate judge entered a report recommending this petition for writ of habeas corpus, filed pursuant to 28 U.S.C. § 2241, be dismissed for lack of jurisdiction or, alternatively, be denied as time-barred. (Doc. 6). The magistrate judge’s recommendation was based on her conclusion that, while styled as a § 2241 petition, this matter is actually a motion to vacate, amend, or correct sentence pursuant to § 2255. (*Id.*). In response, petitioner filed a pleading styled as a “Notice of Appeal to 11th Circuit.” (Doc. 8). The substance of the pleading asserts the magistrate judge exceeded her authority and the court erred by adopting the report and recommendation as a final order. (*Id.*).

Because no final order has been entered in this case, there is nothing to appeal.¹ Accordingly, the undersigned construes petitioner's most recent filing as objections to the report and recommendation. Additionally, because there has been no final order in this case, petitioner's objections are devoid of merit. The magistrate judge's report and recommendation complies with the provisions of 28 U.S.C. § 636. Accordingly, petitioner's objections are **OVERRULED**.

Having carefully reviewed and considered *de novo* all the materials in the court file, the court **ADOPTS** the magistrate judge's report and **ACCEPTS** her recommendation. Accordingly, the petition for writ of habeas corpus is due to be dismissed without prejudice for lack of jurisdiction or, alternatively, denied as time-barred. Additionally, to the extent a certificate of appealability might be required, it is **DENIED** for the reasons stated in the report and recommendation. Petitioner may seek a certificate of appealability directly from the Eleventh Circuit Court of Appeals.

A final judgment will be entered.

¹ The magistrate judge informed petitioner that the report and recommendation could not be appealed to the Eleventh Circuit and that any such appeal could only be made from a final judgment entered by a district judge. (Doc. 6 at 9). No district judge has, prior to today, entered a final judgment.

DONE this 11th day of March, 2015.

A handwritten signature in cursive script, appearing to read "V. Emerson Hopkins", written in black ink.

VIRGINIA EMERSON HOPKINS
United States District Judge