

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

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|----------------------|---|---------------------------|
| ROBERT THOMAS MAYS, | : | |
| | : | |
| Petitioner, | : | |
| | : | |
| vs. | : | CIVIL ACTION 10-0028-WS-M |
| | : | |
| CARTER F. DAVENPORT, | : | |
| | : | |
| Respondent. | : | |

ORDER

After due and proper consideration of all pleadings in this file, and a *de novo* determination of those portions of the Recommendation to which objection is made, the Recommendation of the Magistrate Judge made under 28 U.S.C. § 636(b)(1)(B) is adopted as the opinion of this Court¹.

It is ORDERED that this habeas petition be Dismissed as time-barred. The Court further ORDERS that this action be DISMISSED as Mays has procedurally defaulted on three of his six claims and the other three claims are without merit. Finally, it is ORDERED that Petitioner is not entitled to a certificate of appealability and, therefore, not entitled to appeal *in forma pauperis*.

¹ The formatting error found in footnote five at the bottom of page 11 of the Report and Recommendation (Doc. 44) is noted, but is of no consequence.

DONE this 28th day of November, 2011.

s/WILLIAM H. STEELE
CHIEF UNITED STATES DISTRICT JUDGE