

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

ERROLL G. HARRELL,)	
)	
Petitioner,)	
)	
v.)	CIVIL ACTION NO.
)	11-00702-CB-B
CYNTHIA WHITE,)	
)	
Respondent,)	

ORDER

This matter is before the Court on Petitioner’s objection (Doc. 14) to the Magistrate Judge’s Report & Recommendation (Doc. 13) that this action be dismissed as time barred. The Magistrate Judge concluded that the petition was untimely because it was filed more than one year after the underlying state court conviction became final, in violation of 28 U.S.C. § 2244(d)(1). In his objection, Petitioner argues that the one-year limitations period does not apply to claims such as his that challenge the trial court’s subject matter jurisdiction. Section 2244 makes no exception for jurisdictional claims, and courts have uniformly rejected the proposition that jurisdictional claims are exempt from AEDPA’s one-year limitations period. *See, e.g., Morales v. Jones*, 417 Fed. App’x 746, 749 (10th Cir. 2011) (state court’s lack of subject matter jurisdiction is a due process claim and “[a]s with any other habeas claim []is subject to dismissal for untimeliness); *Barreto-Barreto v. United States*, 551 F.3d 95 (1st Cir. 2008) (rejecting similar argument with respect to § 2255’s limitations period); *United States v. Card*, 534 Fed. App’x 765 (10th Cir. 2013) (denying COA and rejecting petitioner’s argument that jurisdictional

challenge was not subject to § 2255's limitation period); *United States v. Scruggs*, 691 F.3d 660, 667 (5th Cir. 2012) (movant was not excused from including claim in his § 2255 motion because "the statutory limitations on § 2255 review apply to jurisdictional claims").

For the foregoing reasons, the Court **OVERRULES** Petitioner's objection and hereby **ADOPTS** the Magistrate Judge's Report and Recommendation.

DONE and **ORDERED** this the 17th day of March, 2014.

s/Charles R. Butler, Jr.

Senior United States District Judge