

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

BILLY JACK THOMAS,
Petitioner,

vs.

TONY PATTERSON,
Respondent.

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CIVIL ACTION 12-0365-KD-M

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 Report and Recommendation of the Magistrate Judge made under 28 U.S.C. § 636(b)(1)(B) and dated October 18, 2012 is **ADOPTED** as the opinion of this Court.

It is **ORDERED** that this habeas petition is **DENIED** and that this action is **DISMISSED**. It is further **ORDERED** that, should Petitioner file a certificate of appealability, it is **DENIED** as he is not entitled to appeal *in forma pauperis*.

DONE and ORDERED this the 13th day of **November 2012**.

/s/ Kristi K. DuBose
KRISTI K. DuBOSE
UNITED STATES DISTRICT JUDGE