

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

|                                       |   |                                   |
|---------------------------------------|---|-----------------------------------|
| <b>WENDELL HIGHTOWER, AIS #124216</b> | : |                                   |
| <b>Petitioner,</b>                    | : |                                   |
|                                       | : |                                   |
| <b>v.</b>                             | : | <b>CIVIL ACTION 15-00427-KD-C</b> |
|                                       | : |                                   |
| <b>CARTER DAVENPORT,</b>              | : |                                   |
| <b>Respondent.</b>                    | : |                                   |

**ORDER**

After due and proper consideration of all portions of this file deemed relevant to the issues raised, and a *de novo* determination of those portions of the Report and 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 September 11, 2015, is **ADOPTED** as the opinion of this Court. Accordingly, it is **ORDERED** that Petitioner Hightower’s petition for writ of habeas corpus is summarily dismissed, in accordance with Rule 4 of the Rules Governing Section 2254 Cases, for failure to state a claim for federal habeas corpus relief.

Petitioner Hightower is not entitled to a certificate of appealability and, therefore, he is not entitled to appeal *in forma pauperis*.

**DONE and ORDERED** this the **8<sup>th</sup>** day of **October 2015**.

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