

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

<b>ALLEN ALTO MADDOX,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>vs.</b>	)	<b>CIV. ACT. NO. 1:17-cv-536-TFM-B</b>
	)	
<b>GUY NOE,</b>	)	
	)	
<b>Respondent.</b>	)	

**MEMORANDUM OPINION AND ORDER**

On November 4, 2020, the Magistrate Judge entered a report and recommendation which recommends the habeas petition filed pursuant to 28 U.S.C. § 2254 by Petitioner Allen Alto Maddox be dismissed with prejudice as time barred and the denial of a certificate of appealability. *See* Doc. 13. Petitioner filed objections which the Court will consider timely in light of the request for an extension of time. *See* Docs. 14, 15. The Court has reviewed the report and recommendation, objections, and conducted a de novo review of the case file. For the reasons discussed below, the objections are **OVERRULED** and the Report and Recommendation is **ADOPTED**.

In Plaintiff's objections, he repeats his assertions of actual innocence and indicates that the statute of limitations period should be extended. He attaches a letter in support of his claim. *See* Doc. 15 at 10 and Appendix A. In reviewing a magistrate judge's report and recommendation, the Court does not consider objections based on arguments not raised before the magistrate judge. *See Williams v. McNeil*, 557 F.3d 1287, 1292 (11th Cir. 2009).<sup>1</sup> Next, to the extent he repeats the merits

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<sup>1</sup> Even the Court considered it, it would be overruled because nothing referenced in the Appendix provides context as to the letter and its relationship to the original criminal case. Further, a review of the record of the criminal case establishes that the child victim had different initials than the person who completed the letter.

of the arguments his petition, as noted by the Magistrate Judge, those issues need not be further considered because since the petition is clearly time-barred, the Court need not determine the merits of the case. *See* Doc. 13 at 20, n. 9. Finally, to the extent Petitioner objects to the recommendation's discussion on denying the certificate of appealability, the Magistrate Judge provided sufficient discussion as to the basis for the denial of a certificate of appealability which the Court finds to be correct.

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, it is **ORDERED** as follows:

- (1) Petitioner's objections (Doc. 15) are **OVERRULED**;
- (2) The Report and Recommendation (Doc. 13) is **ADOPTED** as the opinion of the Court;
- (3) Petitioner's habeas petition is **DISMISSED with prejudice** as time barred.

Final judgment shall issue separately in accordance with this order and Federal Rule of Civil Procedure 58.

**DONE** and **ORDERED** this 11th day of December, 2020.

/s/Terry F. Moorer  
TERRY F. MOORER  
UNITED STATES DISTRICT JUDGE