

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

DERRICK MILNER, *

Petitioner, *

vs. *

ANTHONY WASHINGTON, Warden * CASE NO. 4:11-CV-136 (CDL)

Respondent. *

ORDER ON REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

After a *de novo* review of the record in this case, the Report and Recommendation filed by the United States Magistrate Judge on January 31, 2012 is hereby approved, adopted, and made the Order of the Court, except that the Court does correct one error in the recommendation. The Magistrate erroneously indicated that the Defendant was found guilty on January 4, 2006 of malice murder, two counts of felony murder, and two counts of aggravated assault when Petitioner in fact was *sentenced* on January 4, 2006 for two counts of felony murder and two counts of aggravated assault. He was acquitted of malice murder. The Court finds that this error in the Magistrate's Report and Recommendation does not affect whether Petitioner is entitled to habeas relief. The Court finds that he is not entitled to such relief for the reasons stated in the Magistrate's Report and Recommendation.

The objection of the Petitioner has been considered and is found to be without merit.

The Court also adopts the Magistrate's recommendation that no certificate of appealability is warranted.

IT IS SO ORDERED, this 12th day of March, 2012.

s/Clay D. Land

CLAY D. LAND
UNITED STATES DISTRICT JUDGE