

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION

|                    |   |                            |
|--------------------|---|----------------------------|
| DONNIE MITCHELL,   | : |                            |
|                    | : |                            |
|                    | : |                            |
| <b>Petitioner,</b> | : |                            |
|                    | : |                            |
| <b>v.</b>          | : | <b>Civil Action No.</b>    |
|                    | : | <b>5:10-CV-397-CAR-CHW</b> |
|                    | : |                            |
| BRIAN OWENS,       | : |                            |
|                    | : |                            |
| <b>Respondent.</b> | : |                            |

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**ORDER ON THE RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

Before the Court is the United States Magistrate Judge’s Recommendation [Doc.18] to dismiss the above captioned petition as untimely according to the provisions of the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), 28 U.S.C. §2244(d). The Magistrate Judge further recommends that a certificate of appealability be denied. No Objection to the Recommendation was filed.

After careful consideration of the Recommendation, the Court accepts and adopts the findings and conclusions of the Magistrate Judge. The Recommendation is therefore **ADOPTED** and **MADE THE ORDER OF THE COURT**. For the reasons stated in the Recommendation, the instant § 2254 petition for writ of habeas corpus is **DISMISSED** with prejudice, and a certificate of appealability is **DENIED**.

SO ORDERED, this 13th day of June, 2011.

S/ C. Ashley Royal  
C. ASHLEY ROYAL, JUDGE  
UNITED STATES DISTRICT COURT

jlr