

**CIVIL ACTION NO. 5:11-CV-314(MTT)**

This matter is before the Court on the Recommendation of United States Magistrate Judge Stephen Hyles. (Doc. 15). The Magistrate Judge recommends granting the Respondent's Motion to Dismiss and dismissing the Petitioner's Petition as untimely. The Magistrate Judge also recommends denying a certificate of appealability. The Petitioner has not filed an objection to the Recommendation.

Having considered the Recommendation, the Recommendation is adopted and made the order of this Court. The Respondent's Motion to Dismiss is **granted**, and the Petition is **dismissed**. Because the Petitioner has failed to meet the requisite standard, a certificate of appealability is **denied**.

**SO ORDERED**, this 7th day of March, 2012.

S/ Marc T. Treadwell  
MARC T. TREADWELL, JUDGE  
UNITED STATES DISTRICT COURT