

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

<p>TRENT D. CLEMENS,</p>)	
)	
Petitioner,)	
)	
v.)	CIVIL ACTION NO. 5:14-CV-217 (MTT)
)	
TOM GRAMIAK,)	
)	
Respondent.)	
)	

ORDER

Before the Court is the Recommendation of Magistrate Judge Stephen Hyles. (Doc. 17). The Magistrate Judge recommends granting the Respondent’s motion to dismiss (Doc. 7) and dismissing the Petitioner’s application for writ of habeas corpus pursuant to 28 U.S.C. § 2254 as untimely.¹ The Magistrate Judge further recommends denying a certificate of appealability. The Petitioner has not objected to the Recommendation. The Court has reviewed the Recommendation, and the Court accepts and adopts the findings, conclusions, and recommendations of the Magistrate Judge. The Recommendation is **ADOPTED** and made the order of this Court. Accordingly, the Respondent’s motion to dismiss is **GRANTED**, and the petition is **DISMISSED**. A certificate of appealability is **DENIED** for the reasons stated in the Recommendation. Additionally, because there are no non-frivolous issues to raise on

¹ The Court notes that there were 111 days remaining when the Petitioner filed his state habeas petition—not 110 as stated in the Recommendation (365 days minus the 254 days from October 22, 2012, when his conviction became final to July 3, 2013, when he filed his state habeas petition). However, because the Petitioner filed his federal habeas petition well outside the expiration of the AEDPA time period, it makes no difference to the timeliness determination.

appeal, an appeal would not be taken in good faith. See 28 U.S.C. § 1915(a)(3).

Accordingly, any motion to proceed *in forma pauperis* on appeal is **DENIED**.

SO ORDERED, this 15th day of January, 2015.

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