

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JOSEPH P. MIKELL,

Petitioner,

v.

WILLIAM M. TERRY

Warden,

Respondent.

CIVIL ACTION FILE
NO. 1:10-CV-735-TWT

ORDER

This is a pro se habeas corpus action by a state prisoner serving a life sentence for the murder of his wife. It is before the Court on the Report and Recommendation [Doc. 15] of the Magistrate Judge recommending that the Petition be dismissed. The Petitioner's claims that trial counsel and appellate counsel rendered ineffective assistance of counsel by not discovering the two "newly" discovered witnesses are without merit for the reasons set forth in the thorough and well-reasoned Report and Recommendation. The Court approves and adopts the Report and Recommendation as the judgment of the Court. The Petition is DENIED. A Certificate of Appealability is granted on the issues of whether Petitioner is entitled to any relief on account of trial counsel's failure to adduce the testimony of Patel and Magby (including the

information provided in their 2007 affidavits), and/or whether such claim is procedurally barred.

SO ORDERED, this 12 day of December, 2012.

/s/Thomas W. Thrash
THOMAS W. THRASH, JR.
United States District Judge