

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF GEORGIA
DUBLIN DIVISION

FILED
U.S. DISTRICT COURT
ATLANTA DIV.
2016 FEB 10 AM 10:38

RONALD A. BRINSON,

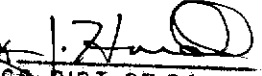
Petitioner,

v.

HOMER BRYSON, Commissioner,

Respondent.

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CLERK 
SO. DIST. OF GA.

CV 315-015

ORDER

Presently before the Court is Petitioner's post-judgment motion in this habeas corpus case brought pursuant to 28 U.S.C. § 2254. The motion seeks "correctness of enumerate[d] error (5) (five)." (See Doc. No. 42.) On January 27, 2016, this Court adopted the Report and Recommendation, over nearly forty pages of Petitioner's objections, which recommended denying the § 2254 petition. While the Court received the instant motion on February 1, 2016, it appears that Petitioner executed the motion on January 19, 2016, prior to the Court's adoption order. Accordingly, the Court construes the motion as an untimely additional objection to the Report and Recommendation, which was entered on December 18, 2015.

Given the untimeliness of Petitioner's objection (it was executed twelve days after objections were due to be filed), the motion (doc. no. 42) is **DENIED**. Moreover, on the merits, the Report and Recommendation thoroughly addressed Enumerated Error 5 in reporting that the issue, whether the trial court

erred in not giving the jury a written copy of requested jury instructions, had been procedurally defaulted under O.C.G.A. § 9-14-48(d). The Report and Recommendation further reported that Petitioner could not overcome this procedural default. Nothing in Petitioner's present motion respecting Enumerated Error 5 warrants this Court's reversal of its decision to adopt these findings of the Report and Recommendation. Accordingly, Petitioner's objection, even if timely, would have been overruled.

ORDER ENTERED at Augusta, Georgia, this 10th day of February, 2016.


UNITED STATES DISTRICT JUDGE