

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

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ANDRE C. MYERS,)
)
Petitioner,)
)
v.)
)
UNITED STATES OF AMERICA,)
)
Respondent.)
)

CASE NOS. CV413-221
CR495-123

O R D E R

Before the Court is the Magistrate Judge's Report and Recommendation (Doc. 2), to which objections have been filed (Doc. 4). After a careful de novo review of the record, the Court concludes that Petitioner's objections are without merit. Accordingly, the report and recommendation is **ADOPTED** as the Court's opinion in this case, and Petitioner's 28 U.S.C. § 2255 Petition is **DISMISSED**. The Clerk of Court is **DIRECTED** to close this case.

In his objections, Petitioner relies on the Supreme Court's recent decision in McQuiggin v. Perkins, ___ U.S. ___, 133 S. Ct. 1924 (2013), for the notion that he need not obtain permission from the Eleventh Circuit Court of Appeals prior to filing a successive petition. (Doc. 4 at 1.) However, the Court in McQuiggin held that a colorable

claim of innocence could excuse procedural limitations on filing habeas petitions. 133 S. Ct. at 1928. In this case, the issue is one of jurisdiction, not a procedural barrier.

For this Court to have jurisdiction to entertain a successive habeas petition, the petitioner must first obtain permission from the Eleventh Circuit Court of Appeals by filing an "Application for Leave to File a Second or Successive Habeas Corpus Petition," using the form provided by the Eleventh Circuit Clerk of Court. Absent certification from the Eleventh Circuit Court of Appeals pursuant to Eleventh Circuit Rule 22-3(a), this Court is without jurisdiction to entertain the merits of any successive petition. Because this Court lacks any jurisdiction over the petition, McQuiggin is inapplicable and the petition must be **DISMISSED**.

SO ORDERED this 20th day of December 2013.



WILLIAM T. MOORE, JR.
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA