

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

CORNELIUS BRAYBOY

PETITIONER

VS.

CIVIL ACTION NO. 3:18CV13TSL-RPM

WARDEN CHERON NASH

RESPONDENT

ORDER

This cause came on this date to be heard upon the report and recommendation of United States Magistrate Judge Robert P. Myers, and the court, having fully reviewed the report and recommendation entered in this cause on January 25, 2021, and being duly advised in the premises and there being no objection filed by any party finds that said report and recommendation should be adopted as the opinion of this court.

IT IS, THEREFORE, ORDERED that the report and recommendation of United States Magistrate Judge Robert P. Myers entered on January 25, 2021 be, and the same is hereby adopted as the finding of this court. It follows that Brayboy's § 2241 petition is dismissed with prejudice as to the jurisdictional issue and without prejudice otherwise. See Pack v. Yusuff, 218 F.3d 448, 454 (5th Cir. 2000) (conclusion that petitioner did not come within savings clause results in dismissal with prejudice as to jurisdiction and otherwise without prejudice).

A separate judgment will be entered in accordance with Rule

58 of the Federal Rules of Civil Procedure.

SO ORDERED this 17th day of February, 2021.

/s/ Tom S. Lee
UNITED STATES DISTRICT JUDGE