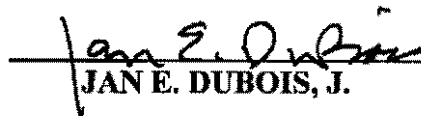


OVERRULED on the ground that it addresses the merits of petitioner's claims, not the timeliness of the Petition for Writ of Habeas Corpus, which was the basis for the Report and Recommendation. The Report and Recommendation did not address the merits of the Petition as there was no need to do so;

4. Petitioner's Rule 591 Motion to Challenge or Withdraw Plea is **DENIED WITHOUT PREJUDICE** to petitioner's right to present the issues raised in the Motion with the appropriate state court; and,

5. A certificate of appealability will not issue because reasonable jurists would not debate whether the petition states a valid claim of the denial of a constitutional right or this Court's procedural rulings with respect to petitioner's claims. See 28 U.S.C. § 2253(c)(2); Slack v. McDaniel, 529 U.S. 473, 484 (2000).

BY THE COURT:


JAN E. DUBOIS, J.