

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

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|---------------------------------------|---|---------------------|
| TOMMY W. ANDERSON, |) | |
| AIS # 301664, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | CASE No. |
| |) | 1:18-CV-413-RAH-SMD |
| WALTER MYERS, Warden, <i>et al.</i> , |) | |
| |) | |
| Respondents. |) | |

ORDER

On May 27, 2021, the Magistrate Judge filed a Recommendation to dismiss the Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 with prejudice. (Doc. 29.) On May 27, 2021, the Petitioner filed his Objections to the Recommendation. (Doc. 30.)

After an independent review of the record and upon consideration of the Magistrate Judge's Recommendation and the objections thereto, it is

ORDERED as follows:

- (1) The Objections (Doc. 30) are OVERRULED;
- (2) The Recommendation of the Magistrate Judge (Doc. 29) is ADOPTED;
- (3) The Petition is DENIED without an evidentiary hearing; and
- (4) This case be DISMISSED WITH PREJUDICE.

Furthermore, a certificate of appealability will not be issued. For a petitioner to obtain a certificate of appealability, he must make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). This showing requires that "reasonable

jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (citation and internal quotation marks omitted). And, where a petition is denied on procedural grounds, he “must show not only that one or more of the claims he has raised presents a substantial constitutional issue, but also that there is a substantial issue about the correctness of the procedural ground on which the petition was denied.” *Gordon v. Sec’y, Dep’t of Corrs.*, 479 F.3d 1299, 1300 (11th Cir. 2007) (citations omitted). “A ‘substantial question’ about the procedural ruling means that the correctness of it under the law as it now stands is debatable among jurists of reason.” *Id.*

Because reasonable jurists would not find the denial of Petitioner’s § 2254 petition debatable, a certificate of appealability is DENIED.

DONE, on this the 21st day of June, 2021.

/s/ R. Austin Huffaker, Jr.
R. AUSTIN HUFFAKER, JR.
UNITED STATES DISTRICT JUDGE