

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

JEREMY THURMAN,

Petitioner,

v.

1:16-cv-3368-WSD

STATE OF GEORGIA,

Respondent.

OPINION AND ORDER

This matter is before the Court on Magistrate Judge Justin S. Anand’s Final Report and Recommendation [3] (“R&R”). The R&R recommends dismissal of this action for failure to comply with a lawful order of the Court.

I. BACKGROUND

On September 6, 2016, Petitioner Jeremy Thurman (“Petitioner”), submitted what he styled as a “direct Appeal Motion,” and the Clerk docketed the pleading as a habeas petition under 28 U.S.C. § 2254.

On September 20, 2016, the Magistrate Judge entered an Order instructing Petitioner to submit the full filing fee or a request to proceed *in forma pauperis*, and, if he did intend to file the action as a habeas petition in this Court, to amend the petition on the proper forms to add factual allegations regarding the acts or

omissions he claims violated his constitutional rights. ([2]). The Magistrate Judge advised Petitioner that failure to comply with the instructions may result in dismissal of the petition. (Id.). Petitioner failed to pay the filing fee, submit a request to proceed *in forma pauperis*, or submit the required amendment.

On November 11, 2016, the Magistrate Judge issued his R&R. The R&R recommends dismissal, without prejudice, of this action for failure to comply with a lawful order of the Court. Petitioner did not object to the R&R, and has not otherwise taken any action in this case.

II. DISCUSSION

A. Legal Standard

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject, or modify a magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); Williams v. Wainwright, 681 F.2d 732 (11th Cir. 1982), cert. denied, 459 U.S. 1112 (1983). No party objects to the R&R, and the Court thus conducts a plain error review of the record. See United States v. Slay, 714 F.2d 1093, 1095 (11th Cir. 1983).

B. Analysis

Under Local Rule 41.3(A)(2), “[t]he court may, with or without notice to the parties, dismiss a civil case for want of prosecution if: . . . [a] plaintiff . . . shall,

after notice, . . . fail or refuse to obey a lawful order of the court in the case.” LR 41.3(A)(2), NDGa.

Plaintiff failed to comply with the Magistrate Judge’s Order after being advised that failure to comply may result in dismissal of this action. The Court finds no plain error in the Magistrate Judge’s recommendation that this action be dismissed, without prejudice, for failure to comply with a lawful order of the Court. See Slay, 714 F.2d at 1095.

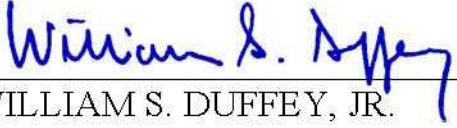
III. CONCLUSION

For the foregoing reasons,

IT IS HEREBY ORDERED that Magistrate Judge Justin S. Anand’s Final Report and Recommendation [3] is **ADOPTED**.

IT IS FURTHER ORDERED that this action is **DISMISSED WITHOUT PREJUDICE**.

SO ORDERED this 6th day of December, 2016.



WILLIAM S. DUFFEY, JR.
UNITED STATES DISTRICT JUDGE