

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**RENALDO DIAZ PEREZ,**

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**Petitioner,**

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}

**v.**

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**Case No.: 2:17-cv-2060-MHH-TMP**

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**WARDEN,**

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}

**Respondent.**

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**MEMORANDUM OPINION**

Renaldo Diaz Perez filed this petition for a writ of habeas corpus on December 6, 2017. (Doc. 1). Mr. Perez challenges his conviction in Franklin County Circuit Court for sexual abuse of a minor. (Doc. 1; Doc. 8-1, pp. 8, 26, 30).

The magistrate judge assigned to this case ordered Mr. Perez to explain why the Court should not dismiss this petition. (Doc. 9). Mr. Perez responded and explained that he did not understand the seriousness of his state court guilty plea because of a language barrier, and he asked to be deported to Guatemala. (Doc. 22).

The magistrate judge entered a report in which he recommended that the Court dismiss Mr. Perez’s request for habeas relief because the petition is a successive petition (i.e., Mr. Perez previously filed a habeas petition relating to his

state court sentence), and Mr. Perez has not asked the Eleventh Circuit Court of Appeals for permission to file a second habeas petition. The magistrate judge also explained that this Court does not have the authority to order Mr. Perez's deportation. (Doc. 26).

The magistrate judge gave Mr. Perez notice of the right to object. (Doc. 26, pp. 8-9). To date, Mr. Perez has not objected to the magistrate judge's report and recommendation.

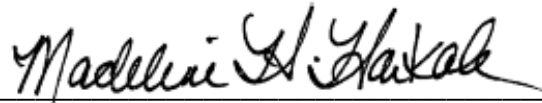
A district court "may accept, reject, or modify, in whole or part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). A district court reviews legal conclusions in a report *de novo* and reviews for plain error factual findings to which no objection is made. *Garvey v. Vaughn*, 993 F.2d 776, 779 n. 9 (11th Cir. 1993); *see also LoConte v. Dugger*, 847 F.2d 745, 749 (11th Cir. 1988); *Macort v. Prem, Inc.*, 208 Fed. Appx. 781, 784 (11th Cir. 2006).

Based on its review of the record in this case, the Court finds no misstatements of law in the report and no plain error in the magistrate judge's factual findings. Therefore, the Court adopts the magistrate judge's report and accepts his recommendation to dismiss Mr. Perez's habeas petition without prejudice.

Because Mr. Perez's petition does not present issues that are debatable among jurists of reason, the Court will not issue a certificate of appealability. *See*

28 U.S.C. § 2253(c); *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000); Rule 11(a), *Rules Governing § 2254 Proceedings*. Mr. Perez may ask the Eleventh Circuit Court of Appeals to issue a certificate of appealability. Rule 11(a), *Rules Governing § 2254 Proceedings*; Fed. R. App. P. 22(b). The Court will issue a separate dismissal order consistent with this memorandum opinion.

**DONE** this 29th day of November, 2018.



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**MADELINE HUGHES HAIKALA**  
UNITED STATES DISTRICT JUDGE