

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

LEONARDO GUTIERREZ,)
)
 Petitioner,)
)
 v.)
)
 U.S. IMMIGRATION CUSTOMS)
 ENFORCEMENT and THE)
 ATTORNEY GENERAL FOR THE)
 STATE OF ALABAMA,)
)
 Respondents.)

Case Number: 4:13-cv-01074-MHH-JHE

MEMORANDUM OPINION

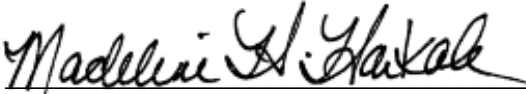
On June 10, 2015, the magistrate judge entered a Report and Recommendation, (Doc. 23), recommending that the petition for writ of habeas corpus be dismissed without prejudice. On July 5, 2016, the Court received correspondence from the petitioner indicating he had been transferred and may have not been receiving mail. (Doc. 24). On July 11, 2016, the Court resent the magistrate judge’s report and recommendation to the petitioner. The time to file objections to the report and recommendation has passed, and no objections have been filed.

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).¹

Having considered the record in this case, including the report and recommendation, the Court adopts the recommendation that the Court should dismiss Mr. Gutierrez’s petition for writ of habeas corpus because “[t]here is nothing in the record to indicate” that Mr. Gutierrez “would not be removed within a reasonable time of him ceasing to stay the removal period” through his actions. (Doc. 23, p. 7). The Court will enter a separate dismissal order.

DONE and **ORDERED** this August 30, 2016.


MADELINE HUGHES HAIKALA
UNITED STATES DISTRICT JUDGE

¹ When a party objects to a report in which a magistrate judge recommends dismissal of the action, a district court must “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. §§ 636(b)(1)(B)-(C).