

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION

CHUKWUKA GABRIEL)
ONYEKABA,)
)
 Petitioner)
)
 vs.)
)
 UNITED STATES CITIZENSHIP)
 AND IMMIGRATION SERVICES,)
)
 Respondent)

Case No. 4:16-cv-00822-MHH-HGD

MEMORANDUM OPINION

On November 9, 2016, the magistrate judge entered a report and recommendation and advised the parties that if they wished to object to the report, they must file objections within fourteen (14) days. (Doc. 20). The magistrate judge recommended that the Court dismiss this action as moot, to the extent that the petitioner was seeking release from custody; dismiss for lack of jurisdiction any claim pertaining to a review of the removal order regarding the petitioner; and deny any request for naturalization that the petitioner may have attempted to make. No party has filed objections 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).

After consideration of the record in this case and the magistrate judge's report and recommendation, the Court ADOPTS the report of the magistrate judge, and the Court ACCEPTS the recommendations of the magistrate judge.


Pursuant to Rule 11 of the *Rules Governing § 2254 Cases*, the Court has evaluated the claims within the petition for suitability for the issuance of a certificate of appealability (COA). *See* 28 U.S.C. § 2253. Rule 22(b) of the Federal Rules of Appellate Procedure provides that when an appeal is taken by a petitioner, the district judge who rendered the judgment "shall" either issue a COA or state the reasons why such a certificate should not issue. Pursuant to 28 U.S.C. § 2253(c)(2), a COA may issue only when the petitioner "has made a substantial showing of the denial of a constitutional right." This showing can be established by demonstrating 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 were "adequate to deserve encouragement to proceed further." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (citing *Barefoot v. Estelle*, 463 U.S. 880, 893 & n.4 (1983)). For procedural rulings, a COA will issue only if reasonable jurists could debate whether the petition

states a valid claim of the denial of a constitutional right and whether the court's procedural ruling was correct. *Id.*

The Court finds that reasonable jurists could not debate the resolution of the claims presented in this habeas corpus petition. For the reasons stated in the magistrate judge's report and recommendation, the Court DECLINES to issue a COA with respect to any claims.

The Court will enter a separate order consistent with this Memorandum Opinion.

DONE and ORDERED this February 9, 2017.

A handwritten signature in black ink, reading "Madeline H. Haikala". The signature is written in a cursive, flowing style.

MADELINE HUGHES HAIKALA
U.S. DISTRICT JUDGE