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

KULVINDER SINGH GHOTRA,)
)
Petitioner,)
)
v.) Case No.: 4:18-cv-1494-MHH-JEO
)
SCOTT HASSELL,)
)
Respondent.)

<u>MEMORANDUM OPINION</u>

On July 3, 2019, the magistrate judge entered a report recommending this action be dismissed without prejudice because Mr. Ghotra's request for relief is premature. (Doc. 8). No party has objected to the 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).

The Court adopts accepts the magistrate judge's recommendation and finds that Mr. Ghotra's habeas petition in premature. Mr. Ghotra's lengthy efforts to

challenge his removal have tolled the presumptive six-month period for removal.

Akinwale v. Ashcroft, 287 F.3d 1050, 1052 n.4 (11th Cir. 2002).[1]

The Court will enter a separate dismissal order.

DONE this 30th day of August, 2019.

_____
MADELINE HUGHES HAIKALA
UNITED STATES DISTRICT JUDGE

---

[1] The magistrate judge, relying on district court opinions, stated that Mr. Ghotra's efforts to obtain relief from his removal order reset, rather than tolled, the presumptive six-month period for removal. (Doc. 8, pp. 8-9). The undersigned will wait for the Eleventh Circuit Court of Appeals to clarify the extent to which the Second Circuit Court of Appeals' forbearance policy affects the binding precedent in *Akinwale*. Because under *Akinwale*, the presumptive six-month period for removal had not run when Mr. Ghotra filed his petition in this action, the result is the same -- Mr. Ghotra's petition was premature. (*See* Doc. 8, pp. 2-4 for the details of Mr. Ghotra's pre-petition efforts to avoid removal).