

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

FRANCISCO ALBERTO CALERO,)	
)	
Petitioner,)	
)	
v.)	Case No.: 4:19-cv-639-MHH-GMB
)	
WILLIAM BARR, et al.,)	
)	
Respondents.)	

MEMORANDUM OPINION

On August 16, 2019, the magistrate judge filed a report in which he recommended that this petition for *habeas corpus* relief filed pursuant to 28 U.S.C. § 2241 be dismissed without prejudice. (Doc. 17). The magistrate judge advised Mr. Calero of his right to file objections to the report within 14 days. (Doc. 17, pp. 7-9). The Court has not received objections from Mr. Calero, and Mr. Calero did not respond to the Court’s June 2019 show cause order concerning his petition. (Doc. 16).

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 agrees that Mr. Calero's April 29, 2019 § 2241 petition is premature under § 1231 and *Zadvydas*. Therefore, the Court accepts the magistrate judge's recommendation and dismisses this action without prejudice.

A separate order will be entered.

DONE this 21st day of October, 2019.

A handwritten signature in black ink, reading "Madeline H. Haikala". The signature is written in a cursive style with a horizontal line underneath the name.

MADELINE HUGHES HAIKALA
UNITED STATES DISTRICT JUDGE