

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**RONALD B. GRAY,**

**Plaintiff,**

**v.**

**1:14-cv-00478-WSD**

**JUDGE SEELIGER, et al.**

**Defendants.**

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**OPINION AND ORDER**

This matter is before the Court on Magistrate Judge Justin S. Anand's Final Report and Recommendation ("R&R"), recommending that this action be dismissed for failure to exhaust State court remedies.

**I. BACKGROUND**

On February 2, 2014, Plaintiff, a pre-trial detainee in DeKalb County, Georgia, filed a Complaint alleging that his constitutional right to a speedy trial was violated in the Superior Court of DeKalb County. On April 7, 2014, the Superior Court denied Plaintiff's Motion for a Speedy Trial and his criminal case was set for trial in June, 2014. Plaintiff appeals the Superior Court's denial of his Motion for a Speedy Trial. On May 28, 2014, the Magistrate Judge recommended that this action be dismissed without prejudice because Plaintiff failed to exhaust

all available remedies in the State courts. The Magistrate Judge also recommended that Plaintiff be denied a certificate of appealability because reasonable jurists would not dispute that Plaintiff failed to exhaust his remedies in the State courts.

## II. DISCUSSION

### A. Legal Standard

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject, or modify a magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); Williams v. Wainwright, 681 F.2d 732, 732 (11th Cir. 1982), cert denied, 459 U.S. 1112 (1983). A district judge "shall 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). With respect to those findings and recommendations to which a party has not asserted objections, the district judge must conduct a plain error review of the record. United States v. Slay, 714 F.2d 1093, 1095 (11th Cir. 1983).

### B. Analysis

Because Plaintiff has not objected to the Magistrate Judge's finding that this action be dismissed, the Court reviews the Magistrate Judge's findings and recommendations for plain error. See Slay 714 F.2d at 1095. A prisoner in State

court must give the State courts an opportunity to resolve his constitutional claims through one complete round of State court review. See Mason v. Allen, 605 F.3d 1114, 1119 (11th Cir. 2010). Plaintiff must appeal the denial of his Motion to the Georgia appellate courts before he can seek relief in a federal court. Id. The Court thus finds no plain error in the Magistrate Judge's finding that this action is required to be dismissed because Plaintiff failed to exhaust his remedies in the State courts. The Court also finds no plain error in the Magistrate Judge's recommendation that a certificate of appealability be denied because reasonable jurists would not dispute that Plaintiff failed to exhaust his remedies in the State courts.

### **III. CONCLUSION**

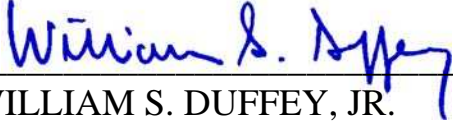
Accordingly, for the foregoing reasons,

**IT IS HEREBY ORDERED** that Magistrate Judge Justin S. Anand's Final R&R is **ADOPTED**.

**IT IS FURTHER ORDERED** that this action is **DISMISSED WITHOUT PREJUDICE**.

**IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**.

**SO ORDERED** this 19th day of November, 2014.

  
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WILLIAM S. DUFFEY, JR.  
UNITED STATES DISTRICT JUDGE