

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

SALEEBAN ADAN,

Petitioner,

v.

1:14-cv-4121-WSD

ROBERT TOOLE,

Respondent.

OPINION AND ORDER

This matter is before the Court on Magistrate Judge Janet F. King's Final Report and Recommendation [10] ("R&R"). The R&R considers Petitioner Saleeban Adan's ("Petitioner") Amended Petition for Writ of Habeas Corpus ("Amended Petition") [4]. The Magistrate Judge recommended that the Amended Petition be dismissed without prejudice for Petitioner's failure to comply with the Magistrate Judge's Orders.

I. BACKGROUND

On December 29, 2014, Petitioner filed his Petition for Writ of Habeas Corpus [1]. On January 7, 2015, the Magistrate Judge ordered Petitioner to submit, within thirty (30) days, either the \$5.00 filing fee for this case or a completed application to proceed *in forma pauperis*. (January 7, 2015, Order, [2] at 1). On

January 22, 2015, Petitioner filed his first Application for Leave to Proceed *In Forma Pauperis* [3] (“First Application”). On February 5, 2015, Petitioner filed his Amended Petitioner.

On February 11, 2015, the Magistrate Judge found that Petitioner had sufficient financial means to pay the \$5.00 filing fee, denied Petitioner’s First Application, and ordered Petitioner to pay the filing fee. (February 11, 2015, Order, [5] at 1-2). On February 27, 2015, Petitioner filed his second Application for Leave to Proceed *In Forma Pauperis* [6] (“Second Application”). On March 18, 2015, the Magistrate Judge found that Petitioner had sufficient financial means to pay the \$5.00 filing fee, denied Petitioner’s Second Application, and ordered Petitioner to pay the filing fee. (March 18, 2015, Order, [7] at 1-2).

On May 4, 2015, the Magistrate Judge ordered Petitioner, within fifteen (15) days, to show cause why this action should not be dismissed for Petitioner’s failure to comply with the Magistrate Judge’s February 11, 2015, and March 18, 2015, Orders. (May 4, 2015, Order, [9] at 1). Petitioner did not respond to the Magistrate Judge’s May 4, 2015, Order, and did not pay the \$5.00 filing fee.

On June 10, 2015, the Magistrate Judge recommended that the Court dismiss Petitioner’s Petition without prejudice for Petitioner’s failure to comply with the

Magistrate Judge's Orders. (R&R at 1). Petitioner did not file any objections to the R&R.

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 (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 objections have not been asserted, the Court must conduct a plain error review of the record. United States v. Slay, 714 F.2d 1093, 1095 (11th Cir. 1983), cert. denied, 464 U.S. 1050 (1984). Petitioner did not object to the R&R and the Court thus reviews it for plain error.

B. Analysis

The Magistrate Judge found that Petitioner failed to comply with the February 11, 2015, March 18, 2015, and May 4, 2015, Orders, and properly recommended that the Court dismiss Petitioner's Petition. See LR 41.3(A)(2),

NDGa. The Court finds no plain error in the Magistrate Judge's findings and recommendation. See Slay, 714 F.2d at 1095.


III. CONCLUSION

For the foregoing reasons,

IT IS HEREBY ORDERED that Magistrate Judge Janet F. King's Final Report and Recommendation [10] is **ADOPTED**.

IT IS FURTHER ORDERED that Petitioner Saleeban Adan's Amended Petition for Writ of Habeas Corpus [4] is **DISMISSED WITHOUT PREJUDICE**.

SO ORDERED this 7th day of October, 2015.



WILLIAM S. DUFFEY, JR.
UNITED STATES DISTRICT JUDGE