IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF GEORGIA BRUNSWICK DIVISION

FERREL BENJAMIN GIBBS,

Petitioner,

٧.

CIVIL ACTION NO.: CV208-108

DEBORAH HICKEY, Warden,

Respondent.

ORDER

Presently before the Court are Petitioner Ferrel Gibbs' ("Gibbs") Objections to the Magistrate Judge's Report and Recommendation dated March 4, 2009. In his Objections, Gibbs asserts 28 U.S.C. § 2241 is the only mechanism available to him to attack the execution of his sentence and that 28 U.S.C. § 2255 is irrelevant to this matter, as he is not attacking any alleged error which occurred at or before his sentencing. Gibbs states he is challenging the authority of the Bureau of Prisons ("BOP") to calculate a sentence and impose a penalty where there is no Congressional authority for the BOP's actions. Gibbs also states that he discovered two (2) years after the time he could have filed a section 2255 motion that the BOP must calculate his sentence and impose a penalty upon him according to the laws of this country. Gibbs asserts this is a newly discovered claim which could not have been addressed by way of a § 2255 motion. Gibbs contends that the BOP has not followed its own policies,

particularly the policies governing the administrative remedy request process. Gibbs also contends that making him follow the requirements of the administrative remedy process would be futile.

Gibbs' Objections are without merit. The Magistrate Judge's Report and Recommendation is adopted as the opinion of the Court. Respondent's Motion to Dismiss is GRANTED. Gibbs' petition for writ of habeas corpus, filed pursuant to 28 U.S.C. § 2241, is **DISMISSED**. The Clerk of Court is directed to enter the appropriate judgment of dismissal.

SO ORDERED, this _____ day of _____

2009.

HONORABLE LISA GODBEY WOOD UNITED STATES DISTRICT JUDGE