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

CARLOS ALVAREZ,)
Petitioner,	
V .) CIVIL ACTION NO.: CV214-070
SUZANNE HASTINGS, Warden,	
Respondent.)

ORDER

After an independent and *de novo* review of the entire record, the undersigned concurs with the Magistrate Judge's Report and Recommendation, to which Petitioner Carlos Alvarez ("Alvarez") filed Objections. In his Objections, Alvarez contends that the Magistrate Judge's conclusion that <u>Burrrage v. United States</u>, ____ U.S. ____, 134 S. Ct. 888 (Jan. 27, 2014), is not retroactively applicable to cases on collateral review is contrary to <u>Fiore v. White</u>, 531 U.S. 225 (2001). In <u>Fiore</u>, the United States Supreme Court determined that a state cannot convict a person, consistent with the due process clause, for conduct that its criminal statute, as properly interpreted, does not prohibit. 531 U.S. at 228. Alvarez was not convicted of an act which is not prohibited by statute, and <u>Fiore</u> is inapplicable.

Alvarez's Objections are **overruled**. The Magistrate Judge's Report and Recommendation is adopted as the opinion of the Court. Respondent's Motion to

Dismiss is GRANTED. Alvarez's 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 2 day of 6 to 12, 2014.

LISA GODBEY WOOD, CHIEF JUDGE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF GEORGIA