

ORIGINAL

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

FILED
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA

2009 FEB -8 PM 4:29

DUBLIN DIVISION

McCarthy

DAMIS FELLOVE,)	
)	
Petitioner,)	
)	
v.)	CV 309-086
)	
WALT WELLS, Warden, et al.,)	
)	
Respondents.)	

ORDER

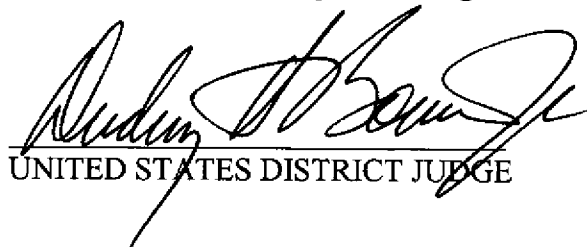
After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge’s Report and Recommendation, to which objections have been filed. The Magistrate Judge recommended that the instant petition be dismissed because it did not state a claim for relief under § 2241. (Doc. no. 2, pp. 3-7). The Magistrate Judge noted that the petition was also subject to dismissal for failure to exhaust administrative remedies. (*Id.*)

Petitioner has asserted in his objections that the Magistrate Judge improperly believed that Petitioner is an “illegal alien.” (Doc. no. 4, p. 1). Additionally, Petitioner has asserted that the Magistrate Judge should not have made a determination concerning Petitioner’s administrative remedies because the petition form specifically instructs petitioners not to include case law or evidence. (*Id.*) First, the Court notes that Petitioner’s § 2241 petition specifically identifies Petitioner as a “foreign national and a deportable alien.” (Doc. no. 1, ¶ 10C). As such, the Magistrate Judge properly analyzed Petitioner’s request for relief and determined, based on his status as a deportable alien, that he was not

entitled to the sought-after relief. Furthermore, as noted by Petitioner in his objection, the Magistrate Judge also concluded that the petition should be dismissed because Petitioner had not exhausted his administrative remedies. Other than contesting the propriety of determining Petitioner's exhaustion of his administrative remedies, Petitioner does not provide any information that he did exhaust his administrative remedies. Neither does Petitioner attempt to argue that exhaustion would be futile. As Petitioner has provided nothing new that would alter the analysis stated in the Report and Recommendation or that would justify excepting him from the exhaustion requirement, his objections are **OVERRULED**.

Accordingly, the Report and Recommendation of the Magistrate Judge is **ADOPTED** as the opinion of the Court. Therefore, the Federal Bureau of Prisons and the Corrections Corporation of America are **DISMISSED** from this case, the above-captioned petition filed pursuant to 28 U.S.C. § 2241 is **DISMISSED**, and this case is **CLOSED**.

SO ORDERED this 3rd day of February, 2010, at Augusta, Georgia.


UNITED STATES DISTRICT JUDGE