

FILED
U.S. DISTRICT COURT
SAVANNAH DIV.

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

2018 APR -9 PM 3:16

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SO. DIST. OF GA.

ISRAEL MOSES JONES,)
)
 Petitioner,)
)
 v.)
)
 ANTONIO CALDWELL,)
)
 Respondent.)
 _____)

CASE NO. CV418-024

O R D E R

Before the Court is the Magistrate Judge's Report and Recommendation (Doc. 4), to which objections have been filed (Doc. 7). In the report and recommendation, Magistrate Judge Smith recommends that Petitioner's petition for habeas corpus be dismissed due to Petitioner's failure to properly exhaust his state remedies. (Doc. 4.) In his objections, Petitioner concedes that he has an appeal currently pending before the Georgia Supreme Court. (Doc. 7.) However, Petitioner contends that there has been a two-year delay in which his appeal has not been addressed by the Georgia Supreme Court. (Id.) As a result, Petitioner requests that this Court excuse the exhaustion requirement and address the merits of his petition. (Id.) Although it is true that this Court may find the exhaustion requirement futile in certain circumstances of excessive or inordinate delay, the Court does not find that the length of

time that Petitioner's appeal has been pending is excessive. See, e.g., Hollis v. Davis, 941 F.2d 1471, 1475 (11th Cir. 1991) ("A federal habeas petitioner need not wait until his state petitions for relief are exhausted, if the state court has unreasonably or without explanation failed to address petitions for relief."). As a result, the report and recommendation is **ADOPTED** as the Court's opinion in this case. This case is **DISMISSED WITHOUT PREJUDICE**. The Clerk of Court is **DIRECTED** to close this case.

SO ORDERED this 9th day of April 2018.



WILLIAM T. MOORE, JR
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA