

**In the United States District Court
For the Southern District of Georgia
Waycross Division**

HENDER GOMEZ RUIZ,

Petitioner,

v.

TRACY JOHNS,

Respondent.

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CIVIL ACTION NO.: 5:17-cv-167

ORDER

After an independent and *de novo* review of the entire record, the Court concurs with and **ADOPTS** the Magistrate Judge's Report and Recommendation, dkt. no. 3, as supplemented herein, as the opinion of the Court.

Petitioner Hender Ruiz ("Ruiz"), an inmate at D. Ray James Correctional Institution in Folkston, Georgia, filed a 28 U.S.C. § 2241 Petition on December 18, 2017. Dkt. No. 1. On this same date, the Clerk of Court advised Ruiz he failed to pay the \$5.00 filing fee or move to proceed *in forma pauperis*. Dkt. No. 2. The Clerk's Notice also advised Ruiz that his failure to respond to that Notice within twenty-one (21) days could result in the dismissal of his cause of action. Id. Ruiz failed to respond to the Clerk's directive. Thus, the Magistrate Judge issued a

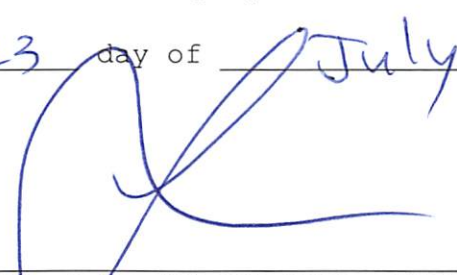
Report on January 22, 2018, recommending the Court dismiss Ruiz's Petition without prejudice due to his failure to follow a Court directive and failure to prosecute. Dkt. No. 3. In response, Ruiz filed a motion for leave to proceed *in forma pauperis* on February 12, 2018. Dkt. No. 4.

The Court deferred ruling on Ruiz's motion by Order dated March 5, 2018, because the Court could not determine whether Ruiz had the ability to pay the requisite \$5.00 filing fee. Dkt. No. 5. The Court directed the Clerk of Court to send Ruiz another blank copy of the application to proceed *in forma pauperis*. The Court also directed Ruiz to submit this completed application and a printout of his most recent trust account statement within fourteen (14) days of that Order. Id. at p. 1. The Court advised Ruiz that his failure to timely comply with its directives could result in the dismissal of his Petition. Id. at p. 2. Ruiz failed to respond to this Court's Order. There is no indication before the Court that this mailing was returned as undeliverable or as otherwise failing to reach Ruiz. In fact, Ruiz has taken no action in this case since his filing on February 12, 2018.

Thus, the Court **ADOPTS** the Magistrate Judge's Report and Recommendation, as supplemented herein, as the opinion of the Court. The Court **DISMISSES without prejudice** Ruiz's 28 U.S.C. § 2241 Petition based on his failure to comply with this Court's

directives and failure to prosecute, **DIRECTS** the Clerk of Court to **CLOSE** this case and enter the appropriate judgment of dismissal, and **DENIES** Ruiz *in forma pauperis* status on appeal.

SO ORDERED, this 23 day of July, 2018.



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