

[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 23-11555

Non-Argument Calendar

DONTAVIOUS ELLIS,

Plaintiff-Appellant,

versus

FULTON COUNTY JAIL,
SHERIFF, FULTON COUNTY GEORGIA,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:23-cv-01798-AT

Before WILSON, BRANCH, and LUCK, Circuit Judges.

PER CURIAM:

This appeal is DISMISSED, *sua sponte*, for lack of jurisdiction. Dontavious Ellis appeals directly from the magistrate judge's April 24, 2023 report and recommendation ("R&R") denying him permission to proceed *in forma pauperis* and recommending that the complaint be dismissed. However, the R&R was not a final, appealable order, and Ellis filed his notice of appeal before the district court adopted the R&R and rendered it final. *See* 28 U.S.C. § 1291; *Donovan v. Sarasota Concrete Co.*, 693 F.2d 1061, 1066-67 (11th Cir. 1982) (explaining that magistrate judge orders issued pursuant to 28 U.S.C. § 636(b) are not final and may not be appealed until rendered final by a district court); *Perez-Priego v. Alachua Cnty. Clerk of Ct.*, 148 F.3d 1272, 1273 (11th Cir. 1998) (providing that a magistrate judge's R&R that has not been adopted by the district court is not final and immediately appealable). Moreover, the district court's subsequent adoption of the R&R did not cure the instant premature notice of appeal. *See Perez-Priego*, 148 F.3d at 1273.

No petition for rehearing may be filed unless it complies with the timing and other requirements of 11th Cir. R. 40-3 and all other applicable rules.