

[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 24-10326

Non-Argument Calendar

DAVID WILLIAMS NATION,

Petitioner-Appellant,

versus

TOWNS COUNTY STATE OF GEORGIA,
WARDEN,

Respondents-Appellees.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 2:22-cv-00097-RWS

Before LUCK, BRASHER, and ABUDU, Circuit Judges.

PER CURIAM:

This appeal is DISMISSED, *sua sponte*, for lack of jurisdiction. David Nation appeals directly from the magistrate judge's January 4, 2024 report and recommendation ("R&R") that recommended that his second amended complaint be dismissed. However, at the time he signed his notice of appeal on January 13, 2024, the district court had not adopted the R&R or otherwise rendered it final. Thus, his notice of appeal is untimely because the R&R was not immediately appealable. *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). Moreover, the district court's subsequent adoption of the R&R on January 23, 2024 did not cure the premature notice of appeal. *See 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).¹

¹ Nation filed a second notice of appeal after the district court adopted the R&R, which is proceeding in appeal number 24-10534.

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Opinion of the Court

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All pending motions are DENIED as moot. 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.