

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

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No. 23-10205-H

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CARMEN A. ZAMMIELLO,

Petitioner - Appellant,

versus

SECRETARY, DEPARTMENT OF CORRECTIONS,  
ATTORNEY GENERAL, STATE OF FLORIDA,

Respondents - Appellees.

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Appeal from the United States District Court  
for the Middle District of Florida

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Before: ROSENBAUM, JILL PRYOR, and BRASHER, Circuit Judges.

BY THE COURT:

This appeal is DISMISSED, *sua sponte*, for lack of jurisdiction. Carmen Zammiello appeals from the magistrate judge's January 5, 2023, order denying his motion to amend his petition for a writ of habeas corpus. Because the order had not been rendered final by the district court at the time of the filing of the notice of appeal, it was not directly appealable. *See United States v. Schultz*, 565 F.3d 1353, 1359 (11th Cir. 2009) (noting that we lack jurisdiction to hear appeals directly from magistrate judges); *McNab v. J & J Marine, Inc.*, 240 F.3d 1326, 1327-28 (11th Cir. 2001) (explaining that, absent consent to adjudication by a magistrate judge, decisions by a magistrate judge pursuant to 28 U.S.C. § 636(b) are not final orders and may not be appealed until rendered final by a district court). Furthermore, any subsequent order by the district court

would not cure the premature notice of appeal. *See Perez-Priego v. Alachua Cnty. Clerk of Ct.*, 148 F.3d 1272, 1273 (11th Cir. 1998) (noting that the court's subsequent adoption of a magistrate judge's report and recommendation does not cure the premature notice of appeal); *Bogle v. Orange Cnty. Bd. of Cnty. Comm'rs*, 162 F.3d 653, 661 (11th Cir. 1998) (explaining that a notice of appeal must designate an already existing judgment or order, not one that is merely expected to be entered).

All pending motions are DENIED as moot. No motion for reconsideration may be filed unless it complies with the timing and other requirements of 11th Cir. R. 27-2 and all other applicable rules.

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

CARMEN A. ZAMMIELLO,

Petitioner,

v.

Case No. 8:21-cv-2714-CEH-JSS

SECRETARY, DEPARTMENT  
OF CORRECTIONS,

Respondent.

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**ORDER**

This matter is before the court on Petitioner's motion to amend his petition for the writ of habeas corpus (Dkt. 27). Because Petitioner's habeas petition was dismissed as an unauthorized successive petition (*see* Dkt. 3), and this case was closed in November 2021, there is no pending petition to amend. Accordingly, the motion to amend (Dkt. 27) is **DENIED**.

**ORDERED** in Tampa, Florida, on January 5, 2023.

  
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JULIE S. SNEED  
UNITED STATES MAGISTRATE JUDGE

Copy to: Petitioner, *pro se*

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Clerk's Office.**