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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA ROCK HILL DIVISION

| Johnny Lawrence, # 232835, |) C/A NO. 0:08-1823-CMC-PJO |
|----------------------------|-----------------------------|
| Petitioner, |)) OPINION and ORDER |
| v. |) |
| McKither Bodison, |) |
| Respondent. |)) |
| |) |

This matter is before the court on Petitioner's *pro se* application for writ of habeas corpus, filed in this court pursuant to 28 U.S.C. § 2254.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(c), DSC, this matter was referred to United States Magistrate Judge Paige J. Gossett for pre-trial proceedings and a Report and Recommendation ("Report"). On August 27, 2009, the Magistrate Judge issued a Report recommending that Respondent's motion for summary judgment be granted and this matter dismissed with prejudice. The Magistrate Judge advised Petitioner of the procedures and requirements for filing objections to the Report and t he serious consequences if he failed to do so. Petitioner filed objections to the Report on September 9, 2009.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28

U.S.C. § 636(b).

After reviewing the record of this matter, the applicable law, the Report and

Recommendation of the Magistrate Judge, and Petitioner's objections, the court agrees with the

conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and

Recommendation by reference in this Order. The Magistrate Judge is correct in her analysis that

Petitioner's time for filing a § 2254 petition had expired even before he filed his petition in 2006.

Petitioner argues in his objections that equitable tolling should apply because of the dismissal of an

earlier § 2254 petition, alleged bias of this court, and a variety of alleged problems with his direct

appeal and application for post-conviction relief. However, Petitioner offers no persuasive argument

or legal authority to indicate the Magistrate Judge erred in her analysis of the motion and the

petition. Therefore, Respondent's motion for summary judgment is **granted** and this matter

is dismissed with prejudice.

IT IS SO ORDERED.

s/ Cameron McGowan Currie

CAMERON McGOWAN CURRIE UNITED STATES DISTRICT JUDGE

Columbia, South Carolina September 14, 2009

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