

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Michael Leon Tumlin, ) Civil Action No. 0:13-2307-MGL  
)  
Petitioner, )  
)  
v. ) **OPINION AND ORDER**  
)  
Travis Bragg, Warden FCI Bennettsville, )  
)  
Respondent. )  
\_\_\_\_\_ )

Petitioner Michael Leon Tumlin, (“Petitioner”), a federal prisoner confined at Federal Correctional Institution Bennettsville, in Bennettsville, South Carolina, filed the instant petition for a *writ of habeas corpus* pursuant to 28 U.S.C. § 2241. (ECF No. 1). In accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(c), D.S.C., this matter was referred to United States Magistrate Judge Paige J. Gossett for pre-trial proceedings and a Report and Recommendation (“Report”).

On November 21, 2013, the Magistrate Judge issued a Report recommending that the Court dismiss Petitioner's application *without prejudice* and without requiring the Respondent to file a return. (ECF No. 14). Objections were due on December 9, 2013. Petitioner has filed no objections to the Report.

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). In the absence of a timely filed Objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

After a careful review of the record, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error. Accordingly, the Court **ACCEPTS** and incorporates the Report, (ECF No. 14), by reference into this Order. It is therefore **ORDERED** that this action is **DISMISSED** *without prejudice* and without requiring Respondent to file a return.

**IT IS SO ORDERED.**

/s/ Mary G. Lewis  
United States District Judge

December 17, 2013  
Spartanburg, South Carolina