

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

JOSE LERMA,

Petitioner,

v.

Civil Action No. **3:17CV588**

ERIC WILSON,

Respondent.

MEMORANDUM OPINION

Jose Lerma, a federal inmate proceeding *pro se*, filed this petition under 28 U.S.C. § 2241¹ (“§ 2241 Petition,” ECF No. 1) challenging his conviction of an institutional infraction and the resulting loss of forty-one days of good conduct credit. (*Id.* ¶¶ 13, 15.) On June 1, 2018, the Magistrate Judge issued a Report and Recommendation wherein he recommended denying the § 2241 Petition. (ECF No. 16.) The Court advised Lerma that he could file objections within fourteen (14) days after the entry of the Report and Recommendation. Lerma has not responded.

“The magistrate makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this court.” *Estrada v. Witkowski*, 816 F. Supp. 408, 410 (D.S.C. 1993) (citing *Mathews v. Weber*,

¹ That statute provides, in pertinent part:

- (c) The writ of habeas corpus shall not extend to a prisoner unless—
- (1) He is in custody under or by color of the authority of the United States or is committed for trial before some court thereof; or
 - (2) He is in custody for an act done or omitted in pursuance of an Act of Congress, or an order, process, judgment or decree of a court or judge of the United States; or
 - (3) He is in custody in violation of the Constitution or laws or treaties of the United States

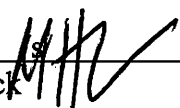
28 U.S.C. § 2241(c)(1)–(3).

423 U.S. 261, 270–71 (1976)). This Court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1). “The filing of objections to a magistrate’s report enables the district judge to focus attention on those issues—factual and legal—that are at the heart of the parties’ dispute.” *Thomas v. Arn*, 474 U.S. 140, 147 (1985) (footnote omitted). In the absence of a specific written objection, this Court may adopt a magistrate judge’s recommendation without conducting a de novo review. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 316 (4th Cir. 2005).

There being no objections, and the Court having determined that the Report and Recommendation is correct on its merits, the Report and Recommendation (ECF No. 16) will be ACCEPTED and ADOPTED. The Motion for Summary Judgment (ECF No. 7) will be GRANTED, and the Motion to Dismiss (ECF No. 6) will be DENIED as MOOT. Lerma’s § 2241 Petition (ECF No. 1) will be DENIED. Lerma’s claims and the action will be DISMISSED.

An appropriate Order will accompany this Memorandum Opinion.

Date: 6/26/18
Richmond, Virginia



M. Hannah Lauck
United States District Judge