

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Honorable Marcia S. Krieger

Civil Action No. 07-cv-02595-MSK-KLM

GREGORY L. WALLACE,

Petitioner,

v.

J.M. WILNER, Warden, FCI - Florence, Co.,

Respondent.

**OPINION AND ORDER ADOPTING RECOMMENDATION
AND DENYING SECOND AMENDED PETITION**

THIS MATTER comes before the Court on the Report and Recommendation (**#31**) of the Magistrate Judge recommending denial of Mr. Wallace's Second Amended Petition for Writ of Habeas Corpus (**#9**) due to mootness.

When a magistrate judge issues a recommendation on a dispositive matter, the parties may file specific, written objections within ten days after being served with a copy of the recommendation. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The district court shall make a *de novo* determination of those portions of the recommendation to which timely and specific objection is made. *See U.S. v. One Parcel of Real Prop. Known as 2121 E. 30th St.*, 73 F.3d 1057, 1060 (10th Cir. 1996). When no party files objections to a magistrate judge's recommendation, the court has discretion to apply whichever standard of review it deems appropriate. *See Summers v. State of Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991).

Mr. Wallace did not file an objection, however, it appears that upon mailing to Mr.

Wallace, it was returned to the Court as undeliverable. Mr. Wallace has not advised the Court of an address where he can be contacted.

This Court has reviewed the thorough Recommendation *de novo*. Upon such *de novo* review, the Court reaches the same conclusion as that articulated by the Magistrate Judge for the same reasons - notably, that Mr. Wallace has been released from custody and has made no demonstration of collateral consequences arising from his incarceration for a supervised release violation.

IT IS THEREFORE ORDERED that the Recommendation (#31) is **ADOPTED**, and the Seconded Amended Petition (#9) is **DENIED**. The Clerk shall close this case.

Dated this 1st day of February, 2010

BY THE COURT:



Marcia S. Krieger
United States District Judge