

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

ELNORSH DUCKWORTH

PETITIONER

VERSUS

CIVIL ACTION NO. 1:11cv1HSO-JMR

PRESTON GOFF

RESPONDENT

**ORDER OVERRULING PETITIONER’S OBJECTIONS, ADOPTING
REPORT AND RECOMMENDATIONS, AND DENYING
PETITIONER’S MOTION FOR LEAVE TO FILE AMENDED
BRIEF IN SUPPORT OF HABEAS CORPUS PETITION**

This matter is before the Court on Petitioner Elnorsh Duckworth’s [“Duckworth”] Objections [33] to the Report and Recommendations of Chief United States Magistrate Judge John M. Roper [31] entered in this cause on April 26, 2012. Respondent filed a Notice [34] of Intention Not to File Formal Response to Petitioner’s Objection on May 11, 2012.¹

I. DISCUSSION

A. Legal Standard

Because an Objection has been filed to the Magistrate’s Report and Recommendations [33], this Court is required to “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); *see also* Rule 8(b) of RULES GOVERNING SECTION 2254 CASES IN THE UNITED STATES DISTRICT COURTS; *Longmire v. Gust*, 921 F.2d 620, 623 (5th Cir. 1991)(party is “entitled to a *de novo* review by

¹On January 17, 2012, Respondent Preston Goff filed a Response [28] in Opposition to Petitioner’s Motion for Leave to File an Amended Brief in Support of Habeas Corpus Petition [27].

an Article III Judge as to those issues to which an objection is made”). The Court is not required, however, to reiterate the findings and conclusions of the Magistrate Judge, *Koetting v. Thompson*, 995 F.2d 37, 40 (5th Cir. 1993), nor need it consider objections which are frivolous, conclusive, or general in nature, *Battle v. United States Parole Commission*, 834 F.2d 419, 421 (5th Cir. 1987).

B. Analysis

Duckworth requests that the Certificate of Appealability [20] be held in abeyance, that deference be given to his *pro se* status, and that this Court retain jurisdiction until such time as it has ruled on his Rule 60(b) Motion. Obj. [33], at p. 4. In further support of his argument, Duckworth has attached his previously filed Objections [33 1-3, 13] as Exhibits to the his latest Objection. These Objections [13] were submitted in response to the Report and Recommendations [10] entered by the Magistrate Judge on June 13, 2011. Therefore, they were previously considered by this Court. On August 9, 2012, the Court entered an Order [39] denying Duckworth’s Motion for Relief from Final Judgment pursuant to FED. R. CIV. P. 60(b). Thus, the relief requested by Duckworth here, to amend his Petition, has been rendered moot.

Based on the foregoing, the Court finds that the Magistrate Judge’s Report and Recommendations are well reasoned, and that they correctly find the applicable facts and apply the governing legal standards.

II. CONCLUSION

For the reasons stated herein, after thoroughly reviewing the findings in the Report and Recommendations, in addition to the positions advanced in Duckworth's Objection [33], and the relevant legal authorities, the Court finds that Duckworth's Objection should be overruled, the Magistrate's Report and Recommendations [31] entered on April 26, 2012, should be adopted as the findings of the Court, and Duckworth's Motion [27] for Leave to File an Amended Brief in Support of Habeas Corpus Petition should be denied.

IT IS, THEREFORE, ORDERED AND ADJUDGED that, Duckworth's Objection [33] to the Report and Recommendations filed in this cause on May 10, 2012, is **OVERRULED**.

IT IS, FURTHER, ORDERED AND ADJUDGED that, the Report and Recommendations [31] of Chief Magistrate Judge John M. Roper entered on April 26, 2012, are adopted as the finding of this Court.

IT IS, FURTHER, ORDERED AND ADJUDGED that, Petitioner's Motion for Leave to File an Amended Brief in Support of Habeas Corpus Petition [27] is **DENIED**.

SO ORDERED AND ADJUDGED, this the 9th day of August, 2012.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE