

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

PAUL ANTHONY BROWN

PETITIONER

VERSUS

CIVIL ACTION NO. 1:14-cv261-HSO-RHW

UNKNOWN HUBBARD, Warden

RESPONDENT

**ORDER ADOPTING PROPOSED FINDINGS OF FACT AND
RECOMMENDATION, GRANTING RESPONDENT'S MOTION TO DISMISS,
AND DISMISSING PETITION FOR WRIT OF HABEAS CORPUS**

This cause comes before the Court on the Proposed Findings of Fact and Recommendation [15] of United States Magistrate Judge Robert H. Walker, entered in this case on November 24, 2014, and the Motion to Dismiss [11] of Respondent Unknown Hubbard, Warden. The Magistrate Judge reviewed Petitioner Paul Anthony Brown's Petition for Writ of Habeas Corpus [8] filed pursuant to 28 U.S.C. § 2254 and Respondent's Motion to Dismiss [11], and determined that the Motion to Dismiss [11] should be granted. Report and Recommendation [15] at 3. The Magistrate Judge recommended that Petitioner's Petition for Writ of Habeas Corpus [8] be dismissed for failure to exhaust state remedies. *Id.*

A copy of the Proposed Findings of Fact and Recommendation [15] was mailed to Petitioner on November 24, 2014, via certified mail return receipt requested. The envelope containing the Proposed Findings of Fact and Recommendation [15] was returned as unclaimed and filed into the record on January 13, 2015. Return [16] at 1. According to an internal staff note on the docket, Petitioner called the Clerk of Court on January 26, 2015, and informed the

Clerk that his address had not changed. The Clerk re-mailed the Proposed Findings of Fact and Recommendation [15] to Petitioner on January 26, 2015. Any objection to the Magistrate Judge's Proposed Findings of Fact and Recommendation [15] was due within fourteen (14) days of service. L.U. Civ. R. 72(a)(3). To date, Petitioner has not filed any objection to the Magistrate Judge's Proposed Findings of Fact and Recommendation [15], and the time to do so has now passed.

Where no party has objected to the Magistrate Judge's Report and Recommendation, the Court need not conduct a de novo review of it. 28 U.S.C. § 636(b)(1) ("a judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). In such cases, the Court applies the "clearly erroneous, abuse of discretion and contrary to law" standard of review. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

Having conducted the required review, the Court concludes that the Magistrate Judge's findings are not clearly erroneous, nor are they an abuse of discretion or contrary to law. For the foregoing reasons, the Court will adopt the Magistrate Judge's Proposed Findings of Fact and Recommendation [15] as the opinion of this Court. Respondent's Motion to Dismiss [11] will be granted, and Petitioner's Petition for Writ of Habeas Corpus [8] filed pursuant to 28 U.S.C. § 2254 will be dismissed for failure to exhaust state remedies.

IT IS, THEREFORE, ORDERED AND ADJUDGED that, the Proposed Findings of Fact and Recommendation [15] of Magistrate Judge Robert H. Walker,

entered on November 24, 2014, is adopted in its entirety as the finding of this Court.

IT IS, FURTHER, ORDERED AND ADJUDGED that, Respondent's Motion to Dismiss [11] is **GRANTED**.

IT IS, FURTHER, ORDERED AND ADJUDGED that, Petitioner Paul Anthony Brown's Petition for Writ of Habeas Corpus [8] filed pursuant to 28 U.S.C. § 2254 is **DISMISSED**. A separate judgment in accordance with this Order will be entered, as required by Federal Rule of Civil Procedure 58.

SO ORDERED AND ADJUDGED, this the 19th day of February, 2015.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE