

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Kenneth Ray Mitchell,)	C/A NO. 3:12-242-CMC-PJG
)	
Petitioner,)	
)	OPINION and ORDER
v.)	
)	
Rolando Myers of ASGDC Warden;)	
Middleton J. Pope, Co. (AMDT.),)	
)	
Respondents.)	
_____)	

This matter is before the court on Petitioner’s *pro se* petition for habeas corpus, construed as having been filed this court pursuant to 28 U.S.C. § 2241.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(c), DSC, this matter was referred to United States Magistrate Judge Paige J. Gossett for pre-trial proceedings and a Report and Recommendation (“Report”). On February 27, 2012, the Magistrate Judge issued a Report recommending that the petition be dismissed without prejudice and without issuance and service of process. The Magistrate Judge advised Petitioner of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Petitioner filed three sets of “objections” to the Report on March 7, 2012, as well a motion for access to a law library. ECF No. 15.

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).

After conducting a *de novo* review as to Petitioner's objections, and considering the record, the applicable law, the Report and Recommendation of the Magistrate Judge, and Petitioner's objections, the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order.

Petitioner's objections are rambling assertions that the court does not have all the evidence he submitted and that he has submitted adequate material to proceed in this court. However, Petitioner does not specify what material which he allegedly forwarded to the court would call into question the Report's conclusion that *Younger v. Harris*, 401 U.S. 37 (1971), precludes this court's interference with ongoing state court criminal proceedings. Therefore, Petitioner's objections are rejected, and this action is dismissed without prejudice and without issuance and service of process. Petitioner's motion for access to a law library is denied as moot.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
March 14, 2012