

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Eugene King,)
Petitioner,) C/A No. 0:12-cv-01130-TLW-PJG
vs.)
Robert M. Stevenson, III, Warden of)
Broad River Correctional Institution,)
Respondent.)
_____)

ORDER

Petitioner, Eugene King (“petitioner”), brought this civil action, *pro se*, pursuant to 28 U.S.C. § 2254 on April 27, 2012. (Doc. #1).

This matter now comes before this Court for review of the Report and Recommendation (“the Report”) filed by United States Magistrate Judge Gossett, to whom this case had previously been assigned. (Doc. #8). In the Report, the Magistrate Judge recommends that this Court dismiss this case without prejudice as a successive § 2254 petition, without requiring the respondent’s to file a return, pursuant to Rule 9 of the Rules Governing § 2254 Cases, 28 U.S.C. foll. § 2254, the Anti-Terrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1214, and Erline Co. S.A. v. Johnson, 440 F.3d 648, 656 (4th Cir. 2006). (See Doc. #8). The petitioner filed objections to the report. (No. 0:12-cv-01130-TLW-PJG, Doc. #12; No. 0:12-cv-949-TLW, Doc. #10).

In conducting its review, this Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections...The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992)

(citations omitted).

In light of the standard set forth in Wallace, this Court has reviewed, *de novo*, the Report and the objections. After careful review of the Report and objections thereto, this Court **ACCEPTS** the Report. (Doc. #8). Therefore, for the reasons articulated by the Magistrate Judge, the petitioner's § 2254 Petition is dismissed without prejudice and without requiring the respondents to file a return.

IT IS SO ORDERED.

/s Terry L. Wooten
TERRY L. WOOTEN
United States District Judge

October 4, 2012
Florence, South Carolina