

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

Ibrahim Hameen,)	C/A NO. 0:13-158-CMC-PJG
)	
Petitioner,)	
)	OPINION and ORDER
v.)	
)	
State of South Carolina,)	
)	
Respondent.)	
_____)	

This matter is before the court on Petitioner’s *pro se* petition for writ of habeas corpus, filed in this court pursuant to 28 U.S.C. § 2254.

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. On September 17, 2013, the Magistrate Judge issued a Report recommending that the case be dismissed with prejudice due to Petitioner’s failure to prosecute this action. The Magistrate Judge advised Petitioner of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if he failed to do so. Petitioner filed a response to the Report on October 1, 2013.

On October 4, 2013, the undersigned provided Petitioner additional time to file a response to Respondent’s motion for summary judgment and directed that the Clerk serve another copy of the order issued pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975). Petitioner was warned that failure to file a response to the motion for summary judgment would result in dismissal of the petition with prejudice.

On October 16, 2013, Petitioner filed a document titled “Response to Motion to Dismiss/Response to Summary Judgement [sic] Objection Objection Objection.” ECF No. 35. Petitioner indicates that he does not want his case dismissed and that he continues to seek a lawyer, “[s]o I’m asking Judge in good faith please do not dismiss my case because of no counsel” *Id.* at 1.

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 and Recommendation 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).

The court has conducted a *de novo* review of the record as to the response made and has considered Petitioner’s response, the entire record, the applicable law, and the Report and Recommendation of the Magistrate Judge.

Petitioner’s filing fails to provide an adequate response to Respondent’s motion for summary judgment. Accordingly, after considering Petitioner’s response and the specific direction and information previously given, the court **dismisses** the petition **with prejudice** due to failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

CERTIFICATE OF APPEALABILITY

The governing law provides that:

(c)(2) A certificate of appealability may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right.

(c)(3) The certificate of appealability . . . shall indicate which specific issue or issues satisfy the showing required by paragraph (2).

28 U.S.C. § 2253(c). A prisoner satisfies this standard by demonstrating that reasonable jurists would find this court's assessment of his constitutional claims is debatable or wrong and that any dispositive procedural ruling by the district court is likewise debatable. *See Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Rose v. Lee*, 252 F.3d 676, 683 (4th Cir. 2001). In this case, the legal standard for the issuance of a certificate of appealability has not been met. Therefore, a certificate of appealability is **denied**.

IT IS SO ORDERED.

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

Columbia, South Carolina
October 17, 2013