

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

Harvey R. Johnson,)	C/A: 1:13-3347-JFA-SVH
)	
Plaintiff,)	
)	ORDER
vs.)	
)	
Warden, FCI Williamsburg,)	
)	
Defendant.)	

This matter is before the court upon the Report and Recommendation of the Magistrate Judge.¹ In the Report, the following language appears on page 8:

Petitioner similarly alleges that he requested and was denied access to photographs of the marijuana, chain of custody forms, and staff memoranda on which the DHO based her decision [Entry #1-1 at 6–9]. The DHO noted in her decision that such items are not produced to inmates for reasons of institutional security and safety. [Entry#8-6, Section V].

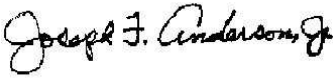
Language identical to the above quoted language appears in the respondent’s memorandum filed before the Magistrate Judge. In reviewing Section 5 of the Disciplinary Hearing Officer’s report, this court cannot locate the language to which both defense counsel and the Magistrate Judge refer. In fact, Section V reveals that plaintiff was provided with

¹ The Magistrate Judge’s review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. 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. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b)(1).

photographs of the alleged contraband and a chain of custody of the urinalysis. Both parties are requested to address this issue in supplemental briefing. Because this matter appears on this court's list of motions that have been pending almost six months, any briefs provided by either party must be received by September 17, 2014 to be considered.

IT IS SO ORDERED.

September 2, 2014
Columbia, South Carolina


Joseph F. Anderson, Jr.
United States District Judge