

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

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Glenn Ford,)
)
 Petitioner,)
)
 v.)
)
 Warden of FCI-Edgefield,)
)
 Respondent.)
 _____)

Civil Action No.: 1:16-cv-1534-RMG
DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON, SC

ORDER

This matter comes before the Court on the Report & Recommendation (R & R) of the Magistrate Judge (Dkt. No. 15). For the reasons below, the Court declines to adopt the R & R as the order of the court.


On May 12, 2016, Petitioner filed a *pro se* petition for writ of habeas corpus. (Dkt. No. 1). Respondent filed a motion for summary judgment on July 5, 2016 (Dkt. No. 10), and the Magistrate Judge entered a *Roseboro* order directing the Petitioner to file his response within 34 days (Dkt. No. 11). Petitioner failed to respond within the allotted time, and the Magistrate Judge issued a second order directing Petitioner to respond by August 25, 2016, or risk dismissal for failure to prosecute. (Dkt. No. 13). Petitioner failed to respond by August 25, and on August 26, 2016, the Magistrate Judge issued an R & R recommending that this court dismisses the petition with prejudice for failure to prosecute. (Dkt. No. 15). On September 19, this Court received a "Motion for Reconsideration" from Petitioner (Dkt. No. 18), in which he claimed that the first document he received from the Court was the R & R recommending that his petition be dismissed for failure to prosecute.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with

this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a de novo determination of those portions of the R&R to which specific objection is made. Additionally, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). This Court may also “receive further evidence or recommit the matter to the magistrate judge with instructions.” *Id.*

Petitioner’s September 19 filing states that he is “in no way re-arguing the merits of his petition,” and requests a production of the documents he has not received. (Dkt. No. 18 at 2). For good cause shown, the Court declines to adopt the R & R and recommits the matter to the Magistrate Judge. The Clerk of Court is directed to send Respondent’s motion for summary judgment (Dkt. No. 10) to Petitioner. Petitioner is directed to respond to Petitioner’s motion for summary judgment by October 26, 2016.

AND IT IS SO ORDERED.


Richard Mark Gergel
United States District Court Judge

September 21, 2016
Charleston, South Carolina