

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

Anthony Cook,)	Civil Action No. 1:16-3853-RMG
)	
Petitioner,)	
)	
v.)	ORDER AND OPINION
)	
Warden McFadden,)	
)	
Respondent.)	
_____)	

This matter is before the Court on the Report and Recommendation of the Magistrate Judge, recommending the petition for habeas relief be summarily dismissed without prejudice. For the reasons set forth below, the Court adopts the Report and Recommendation and dismisses the petition without prejudice.

I. Background

Petitioner was convicted of murder, kidnapping, armed robbery, and grand larceny by the Florence County Court of General Sessions in 1981 and 1982. He is serving a life sentence. Petitioner filed the present petition for habeas relief on December 8, 2016. His 145-page filing asserts no grounds for relief from his conviction or sentence. Nor does it provide any details of his case’s appellate or post-conviction (“PCR”) relief history. Instead, Petitioner challenges the disposition of Civil Action Numbers 8:14-3555-RBH-JDA, 4:16-2939-MBS-TER, 4:16-3101-MBS-TER, 0:16-922-TMC-PJG, 4:16-cv-3807-MBS-TER, 8:16-3194-RBH-JDA, 8:16-3327-RBH-JDA, and 8:16-3328-RBH-TER. He also requests the Court to reinstate Lawrence L. Crawford’s cases; to consolidate this case with others; to remove state cases into this case; disqualify several state and federal court judges (alleging, *inter alia*, that “the judges in the District Court considered to detach my case from Crawford, the their [unclear], King-Khalifah of the (4)

Global Thrones of the Reestablished Global Theocratic State”); to transfer this action and other cases before this Court to New Jersey; to transfer Petitioner and his property to a prerelease camp; to vacate his conviction and sentenced; and to remove his name and DNA “from all derogatory files.”

On February 28, 2017, the Magistrate Judge recommended summary dismissal of the petition because it fails to set forth grounds for relief. (Dkt. No. 19.) On March 13, 2017, Petitioner sought an extension in which to file objections, claiming that he was scheduled for surgery for cancer and a urological condition. (Dkt. No. 21.) The Court granted a six-week extension on March 14, 2017. (Dkt. No. 22.) Nonetheless, on March 31, 2017, the Court received Petitioner’s “affidavit of facts giving judicial notice,” stating, *inter alia*, “Demon Dogs!!! Stop your fraud” and “You are in breach of the trust and contract by your actions in violation of Article I section 10 of the U.S. Constitution impairing the obligation of contract which require the order to be vacated.” (Dkt. No. 24.)¹

II. Legal Standard

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. The Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge. 28 U.S.C. § 636(b)(1).

¹ Petitioner’s objections refer to an order of the “Florence Court” received on March 24, 2017. That appears to be the Florence County Court of Common Plea’s dismissal on March 23, 2017 of Petitioner’s PCR application. Petitioner had a previous PCR application dismissed on February 20, 2013. He may have had other PCR applications dismissed as well since his convictions date from 1981 and 1982.

III. Discussion

A habeas petitioner must specify all grounds for relief available to the petitioner and state facts supporting each ground. *See Mayle v. Felix*, 545 U.S. 644, 655–56 (2005). He may not simply incorporate briefs in other cases by reference. *See Hinton v. TransUnion, LLC*, 654 F. Supp. 2d 440, 446–47 (E.D. Va. 2009) (finding excessive incorporation by reference in a pleading creates unnecessary confusion); *see also Teti v. Bender*, 507 F.3d 50, 60 (1st Cir. 2007). The Court therefore agrees with the Magistrate Judge’s recommendation that the petition be summarily dismissed because Petitioner fails to provide information sufficient to ascertain the grounds he asserts for habeas relief. *Cf. Peyatt v. Holland*, No. 85-6488, 1987 WL 35854 (4th Cir. Feb. 4, 1987).

Further, the Court is aware that author of this patently frivolous petition is the author of several thousand pages of frivolous filings in *Muquit v. McFadden*, 8:14-3555-RBH-JDA (D.S.C.), *Sutcliffe v. Cain*, 4:16-2939-MBS-TER (D.S.C.), *Cook v. Cain*, 4:16-3101-MBS-TER (D.S.C.), *Sutcliffe v. S.C. Supreme Court*, 0:16-922-TMC-PJG (D.S.C.), *Bellamy v. Warden, Lieber CI*, 4:16-cv-3807-RMG-TER (D.S.C.), *Muquit v. The Judges Who Issue Order in Case 16-1953*, 8:16-3194-RBH-JDA (D.S.C.), *Cook v. The Judges Who Issue Order in Case 16-1953*, 8:16-3327-RBH-JDA (D.S.C.), *Crawford v. The Judges Who Issue Order in Case 16-1953*, 8:16-3328-RBH-TER (D.S.C.), *Bellamy v. Parties listed in case 8:16-cv-3320*, 4:17-445 (D.S.C.), and *In re Lawrence Crawford*, 17-1415 (4th Cir.), as well as many cases in South Carolina state courts. The present petition is an effort by that unidentified litigant to pursue claims rejected or pending in those actions, rather than a proper petition challenging Mr. Cook’s conviction or sentence under 28 U.S.C. § 2254 (indeed, on the petition form Petitioner crossed-out “2254” and wrote in “writ of error” and “1983”).

IV. Conclusion

For the foregoing reasons, the Court **ADOPTS** the Report and Recommendation of the Magistrate Judge (Dkt. No. 19) as the Order of the Court and **DISMISSES WITHOUT PREJUDICE** the petition.

Certificate of Appealability

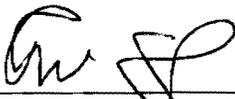
The governing law provides that:

(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 the standard by demonstrating that reasonable jurists would find this court's assessment of his constitutional claims 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**.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court Judge

April 4, 2017
Charleston, South Carolina