

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

Christopher Feaster, #20170675,	)	
	)	
Petitioner,	)	Civil Action No.: 1:18-cv-01881-JMC
	)	
v.	)	
	)	
Sherriff Steve Mueller,	)	<b>ORDER AND OPINION</b>
	)	
Respondent.	)	
_____	)	

This matter is before the court for a review of the Magistrate Judge’s Report and Recommendation (“Report”), [ECF No. 13], filed on August 15, 2018, recommending that the action be dismissed without prejudice. The court accepts the Magistrate Judge’s Report [ECF No. 13] and incorporates it herein by reference. For the reasons set out in the Report, the petition in the above-titled action is dismissed without prejudice.

**I. FACTUAL AND PROCEDURAL BACKGROUND**

The Report sets forth the relevant facts and legal standards, which this court incorporates herein without a full recitation. [ECF No. 13]. As brief background, Petitioner is a pretrial detainee in the Cherokee County Detention Center awaiting the adjudication of three counts of armed robbery and three counts of possession of a weapon during the commission of a violent crime. [ECF No. 10 at 2]. Petitioner filed a petition for habeas corpus under 28 U.S.C. § 2241, alleging that his arrest was unlawful and without probable cause. [ECF No. 10 at 2]. On July 24, 2018, the court issued an order notifying Petitioner that his petition would be summarily dismissed unless he submitted an amended petition alleging sufficient facts to show that exceptional circumstances existed to justify federal review of his pending state proceedings. [ECF No. 7]. Petitioner filed an amended habeas petition on August 12, 2018. [ECF No. 10].

The Magistrate Judge then filed the Report, recommending Petitioner's claim be summarily dismissed without prejudice for a failure to allege facts sufficient to allow the federal court to intervene in a state proceeding pursuant to *Younger v. Harris*, 401 U.S. 37 (1971) and its progeny. [ECF No. 13].

## **II. STANDARD OF REVIEW**

The Magistrate Judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District Court of South Carolina. The Magistrate Judge only makes a recommendation to this court; the responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This court is charged with engaging in a *de novo* review of those portions of the Report and Recommendation to which the parties have made specific objections; the court may accept, reject or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

## **III. DISCUSSION**

The parties were notified of their right to file objections. No objections to the Report were filed. In the absence of objections to the Magistrate Judge's Report, this court is not required to provide an explanation for adopting the recommendation without modification. *See Camby v. Davis*, 718 F.2d 198, 199. Absent objections, the court must only ensure that there is no clear error on the face of the record in order to accept the recommendation. *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). If a party fails to file a specific, written, objection to the Report and Recommendation the party forfeits the right to appeal the District Court's decision concerning the Report. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v.*

*Schronce*, 727 F.2d 91 (4th Cir. 1984).

#### IV. CONCLUSION

After a thorough and careful review of the record, the court finds the Magistrate Judge's Report and Recommendation provides an accurate summary of the facts and law in the above titled case. The court **ACCEPTS** the Magistrate Judge's Report and Recommendation [ECF No. 13] and incorporates it herein by reference. For the reasons set out in the Report, the petition in the above-titled action is **DISMISSED WITHOUT PREJUDICE**.

**IT IS SO ORDERED.**

Handwritten signature of J. Michelle Childs in black ink.

United States District Judge

October 15, 2018  
Columbia, South Carolina