

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Jeffrey Cleveland,)	C/A No. 2:10-414-JFA-RSC
)	
Petitioner,)	
v.)	ORDER
)	
Levern Cohen)	
)	
Respondent.)	
_____)	

Petitioner Jeffrey Cleveland, a state prisoner proceeding without assistance of counsel, seeks habeas corpus relief under 28 U.S.C. § 2241 concerning a prison disciplinary action wherein he was found guilty of possession of narcotics.

The Magistrate Judge assigned to this action¹ has prepared a Report and Recommendation and opines that the petitioner has not exhausted his state remedies, and as such, the petition should be dismissed. The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation and without a hearing.

The petitioner was advised of his right to file objections to the Report and Recommendation, which was entered on the docket on February 24, 2010. Petitioner filed

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).

timely objections. However, his objections merely contend that he did not exhaust his state remedies by properly appealing the dismissal of the Administrative Law Judge's decision because "to appeal a correct order would be frivolous." Such objections are overruled.

After a careful review of the record, the applicable law, the Report and Recommendation, and the petitioner's objections thereto, the court finds the Magistrate Judge's recommendation to be proper and incorporates the Report herein by reference. Accordingly, this action is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.

April 12, 2010
Columbia, South Carolina

A handwritten signature in black ink that reads "Joseph F. Anderson, Jr." The signature is written in a cursive, flowing style.

Joseph F. Anderson, Jr.
United States District Judge