1IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

John X. Bell, aka Omar Abdel-Al-Mumit, aka John James Bell, Petitioner, v. Warden Kershaw Correctional Institution, Respondent.	)	C/A No. 2:11–406-TMC **ORDER**

John Bell ("Petitioner "), a state prisoner proceeding pro se, filed this habeas petition pursuant to 28 U.S.C. § 2254. The Magistrate Judge's Report and Recommendation (Dkt. # 23), filed on April 14, 2011, recommends that this habeas petition be dismissed without prejudice and without issuance and service of process upon Respondent and that the court consider the entry of sanctions against Petitioner due to Petitioner's tendency to file frivolous and vexatious habeas petitions and other actions. The Report and Recommendation sets forth in detail the relevant facts and legal standards on this matter, and the court incorporates the Magistrate Judge's Report herein without a recitation.

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 of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific

objections are made, and 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).

Petitioner was advised of his right to file objections to the Report and Recommendation (Dkt. # 23 at 13). On May 2, 2011, Petitioner filed objections to the Report and Recommendation. (Dkt. # 26). The Court has reviewed those objections, but finds them to be without merit.

After a thorough review of the Report and Recommendation and the record in this case, the court adopts the Magistrate Judge's Report and Recommendation (Dkt. # 23), to the extent that it does not contradict this Order, and incorporates it herein. It is therefore **ORDERED** that the Petition for a Writ of Habeas Corpus in this case be **DISMISSED** without prejudice and without issuance and service of process upon Respondent. Furthermore, the court declines to enter sanctions against Petitioner at this time.

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

Greenville, South Carolina
October 27, 2011

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.