

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

Jimmy Lawrence Nance,)
)
Petitioner,)
) C/A No.: 2:14-cv-744-TLW
vs.)
)
Kenny Atkinson, Warden,)
)
Respondent.)
_____)

ORDER

Petitioner Jimmy Lawrence Nance, proceeding pro se and in forma pauperis, filed this Petition seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2241, and challenging his federal conviction and sentence of life imprisonment imposed on September 21, 1993. (Doc. #1). Also pending before the Court are Petitioner's Motion to Conduct an Evidentiary Hearing, (Doc. #2), and Motion for Writ of Habeas Corpus ad Testificandum, (Doc. #3). These matters now come before this Court for review of the Report and Recommendation ("the Report") filed on April 30, 2014, by Magistrate Judge Bruce Howe Hendricks, (Doc. #23), to whom this case was previously assigned. In the Report, the Magistrate Judge recommends that the § 2241 Petition be dismissed without prejudice and without requiring respondent to file a return. (Doc. #23). The Magistrate Judge further recommends that the Petitioner's pending motions, (Docs. #2, 3), be denied. (Doc. #23). Plaintiff filed objections to the Report on June 9, 2014. (Doc. #29). The Court has reviewed the objections. In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections.... The Court is not bound by the

recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of the standard set forth in Wallace, the Court has reviewed, *de novo*, the Report and the objections. After careful review of the Report and objections thereto, the Court hereby **ACCEPTS** the Report. (Doc. #23). The Petitioner's objections, (Doc. #29), are **OVERRULED**. The Petitioner's § 2241 Petition is dismissed without prejudice and without requiring Respondent to file a return. In addition, in light of this ruling, the Petitioner's Motion to Conduct an Evidentiary Hearing, (Doc. #2), and Motion for Writ of Habeas Corpus ad Testificandum, (Doc. #3), are **DENIED**. The Petitioner's case is hereby **DISMISSED**.

IT IS SO ORDERED.

s/Terry L. Wooten
Chief United States District Judge

August 18, 2014
Columbia, South Carolina