

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Cornelius Antwan Rogers,

Petitioner,

vs.

Warden of McCormick Correctional
Institution,

Respondent.

Civil Action No.: 2:15-2341-BHH

Opinion and Order

Petitioner, Cornelius Antwan Rogers (“Petitioner”), proceeding *pro se*, filed this application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. (ECF No. 1.) In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2)(d), D.S.C., the action was referred to United States Magistrate Mary Gordon Baker, for pretrial handling and a Report and Recommendation (“Report”). Magistrate Judge Baker recommends that Respondent’s Motion for Summary Judgment be granted and Petitioner’s § 2254 petition be dismissed. (ECF No. 25.) The Report sets forth in detail the relevant facts and standards of law on this matter and the Court incorporates them without recitation.

BACKGROUND

Petitioner filed this action against Respondent alleging that his equal protection rights were violated. (ECF No. 1-3 at 6.) On June 20, 2016, the Magistrate Judge issued a Report. (ECF No. 35.) On July 5, 2016, Petitioner filed his Objections (ECF No. 27), to which Respondent replied on July 7, 2016 (ECF No. 28). Having carefully reviewed the record, the Court finds that the Magistrate Judge has accurately and adequately summarized the disputed and undisputed facts relevant to this action. The

Court has reviewed the objections, but finds them to be without merit. Therefore, it will enter judgment accordingly.¹

STANDARD OF REVIEW

The Magistrate Judge makes only a recommendation to the district court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the district court. *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 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 with instructions. 28 U.S.C. § 636(b)(1). The Court need not conduct a *de novo* review when a party makes only “general and conclusory objections that do not direct the court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). In the absence of a timely filed, specific objection, the Magistrate Judge’s conclusions are reviewed only for clear error. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

In reviewing these pleadings, the Court is mindful of Petitioner’s *pro se* status. When dealing with a *pro se* litigant, the Court is charged with liberal construction of the pleadings. *See, e.g., De’Lonta v. Angelone*, 330 F.3d 630, 633 (4th Cir. 2003). The requirement of a liberal construction does not mean, however, that the Court can ignore a petitioner’s clear failure to allege facts that set forth a cognizable claim, or that

¹ As always, the Court says only what is necessary to address Petitioner’s objections against the already meaningful backdrop of a thorough Report of the Magistrate Judge, incorporated entirely by specific reference, herein, to the degree not inconsistent. Exhaustive recitation of law and fact exists there.

the Court must assume the existence of a genuine issue of material fact where none exists. See *United States v. Wilson*, 699 F.3d 789, 797 (4th Cir. 2012).

DISCUSSION

The Court has conducted a *de novo* review of the Report and agrees with the Magistrate Judge that the petition is barred by the statute of limitations. Petitioner's objection, which alleges that Petitioner is entitled to equitable tolling because of his "lack of knowledge for the law and the ways in which it maneuvers," is unavailing.² (ECF No. 27 at 1.) "Courts in this circuit have held that extraordinary circumstances warranting equitable tolling do not include unfamiliarity with the legal process and inadequacy of the prison law library." *Pinckney v. McFadden*, No. 6:14-4274-MGL, 2015 WL 3871876, at *7 (D.S.C. June 22, 2015) (citing *United States v. Sosa*, 364 F.3d 507, 512 (4th Cir. 2004); *Garvin v. Eagleton*, No. 8:12-1165-JMC, 2013 WL 3821482, at *13 (D.S.C. July 23, 2013) ("alleged inadequacies of prison law libraries do not toll the statute of limitations")). Accordingly, the objection is overruled.

CONCLUSION

After a thorough review of the Report, the record, and the applicable law, the Court finds that Petitioner's objections are without merit. Accordingly, for the reasons stated above and by the Magistrate Judge, the Court overrules Petitioner's objections, adopts the Report, and incorporates it herein. It is therefore ORDERED that Respondent's motion for summary judgment (ECF No. 18) is GRANTED and Petitioner's § 2254 petition is DISMISSED *with prejudice*.

² The Court can discern no other specific objections to the Report in Petitioner's brief, only meritless, confusing statements. (ECF No. 27 at 1-5.)

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 in paragraph (2).

28 U.S.C. § 2253 (c). A prisoner satisfies this standard by demonstrating that reasonable jurists would find this Court's assessment of his constitutional claims is debatable or wrong and that any dispositive procedural ruling by this 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. 2011). 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.

IT IS SO ORDERED.

/s/ Bruce Howe Hendricks
United States District Judge

September 6, 2016
Greenville, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.