

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

John R. Demos, # 287455,)
)
Petitioner,)
)
v.)
)
United States of America,)
The C.I.A.,)
The F.B.I.,)
The President of the U.S.A.,)
)
Respondents.)
_____)

Civil Action No. 2:15-2360-TMC

ORDER

Petitioner filed a criminal complaint *pro se* against the United States of America, the C.I.A., the F.B.I., and the President of the United States of America for the alleged criminal destruction of records pertaining to persons responsible for the deaths of President Abraham Lincoln, former First Lady Jacqueline Kennedy Onassis, and guitarist Jimi Hendrix. (ECF No. 1). He claims that he acquired this information as a former document shredder for the C.I.A., and believes that all three were killed because they were threats to national security. Petitioner calls his complaint a criminal complaint for the alleged destruction of the records. Because a suit code does not exist for a lawsuit filed by a private citizen seeking criminal charges, the complaint was designated as a petition for writ of mandamus pursuant to 28 U.S.C. § 1361. In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02, D.S.C., this matter was referred to a magistrate judge for pretrial handling. Before the court is the magistrate judge’s Report and Recommendation (“Report”), recommending that Petitioner’s petition be dismissed without prejudice and without requiring Respondents to file an answer or response; that Petitioner’s motion for leave to proceed *in forma pauperis* (ECF No. 8) be denied; and that the

District Court modify the pre-filing injunction previously issued by this court to require payment of the applicable filing fee in any future non-habeas civil action filed by Petitioner in the District of South Carolina. (ECF No. 12). Petitioner was advised of his right to file objections to the Report. (ECF No. 12 at 7). Petitioner filed timely objections. (ECF No. 14).

The Magistrate Judge makes only a recommendation to the court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the 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). However, 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).

As set forth above, the Report recommends (1) dismissing the petition without prejudice and without requiring Respondents to file an answer or other response; (2) that Petitioner’s motion for leave to proceed *in forma pauperis* (ECF No. 8) be denied; and that the District Court modify the pre-filing injunction to require payment of the applicable filing fee in any future non-habeas actions filed by Petitioner in the District of South Carolina. Petitioner’s objections are unrelated to the dispositive portions of the Report, merely restate his claims, or are repetitive.

In his objections, Petitioner contends that the magistrate judge erred when she stated that criminal prosecutions were brought for the assassination of Abraham Lincoln. (ECF No. 14 at 2-

3). Petitioner claims that the persons prosecuted for this crime were scapegoats and “fall guys” for “big money interests.” (ECF No. 14 at 3). As noted, these objections are non-specific to the dispositive portions of the Report.

Petitioner, an inmate currently incarcerated in the State of Washington, is a frequent filer of lawsuits around the country. He has filed numerous lawsuits in this court. As noted in a previous order of this court, by 2003, he had filed over 200 lawsuits. *Demos v. Governor of the State of Wash.*, No. 8:03-3882 (ECF No. 4). The court issued a pre-filing injunction in that case. *Id.* at ECF No. 5.

Therefore, after thoroughly reviewing the Report and Petitioner’s objections, the court finds no reason to deviate from the Report’s recommended disposition. Accordingly, the court adopts the Report (ECF No. 12), and Petitioner’s petition for writ of mandamus is **DISMISSED** without prejudice and without requiring Respondents to file an answer or other response. Further, Petitioner’s motion for leave to proceed *in forma pauperis* (ECF No. 8) is **DENIED**. It is further ordered that for future non-habeas civil actions filed by Petitioner in this court, Petitioner’s order of pre-filing review, *Demos*, 8:03-cv-0382, ECF No. 5, is modified as follows:

1. The Clerk of Court is authorized to assign civil action numbers (for docket control purposes) and to authorize the assigned magistrate judge to direct Petitioner to pay the statutory filing fee and any administrative fee imposed by the Administrative Office of the United States Courts;
2. Should Petitioner fail to pay the full statutory filing fee in any such applicable civil actions, such actions shall be dismissed without prejudice and without issuance of service of process.

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

August 4, 2015
Anderson, South Carolina

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.