

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

Darrell Williams, #219730,

Plaintiff

v.

Cecelia Reynolds, Warden,

Defendant.

C/A No. 2:16-2835-CMC

Opinion and Order

This matter is before the court on Petitioner's *pro se* motion for relief on the pleadings, filed July 26, 2017. ECF No. 50. An attachment to the motion notes Petitioner wishes to file this motion under Fed. R. Civ. P. 60(b)(1), and that it was "mislabeled as a motion for judgment on pleadings." ECF No. 50-1. The substance of Petitioner's motion argues his claims presented in the underlying action pursuant to 28 U.S.C. § 2254: that South Carolina Code § 17-25-45, which provides a sentence of life imprisonment for offenders with certain predicate offenses, is unconstitutional under the equal protection clause. Respondent has filed a response in opposition, noting the filing is untimely. ECF No. 51. Petitioner filed a reply, arguing the prison mailroom failed to send his objections to the Magistrate Judge's Report on time because it was "in transition of training new staff to handle mail." ECF No. 52.

It appears Petitioner has attempted to file this motion under Fed. R. Civ. P. 60(b)(1), which allows relief from judgment for "mistake, inadvertence, surprise, or excusable neglect." "The remedy provided by the Rule [60(b)], however, is extraordinary and is only to be invoked upon a showing of exceptional circumstances." *Compton v. Alton S.S. Co.*, 608 F.2d 96, 102 (4th Cir. 1979). "To obtain relief under the Rule, a party must demonstrate *inter alia* that he was not

at fault and that the nonmoving party will not be prejudiced by the relief from judgment.” *Home Port Rentals, Inc. v. Ruben*, 957 F.2d 126, 132 (4th Cir. 1992).

On December 13, 2016, Petitioner filed a motion for discovery in this case. ECF No. 20. Respondent filed a response in opposition on December 28, 2016 (ECF No. 21), and Petitioner replied on January 11, 2017 (ECF No. 26.) In addition, Respondent filed its return and a motion for summary judgment on January 6, 2017. ECF Nos. 22, 23. Petitioner’s response in opposition to summary judgment was filed March 6, 2017 (ECF No. 27), Respondent’s reply was filed on March 7, 2017, and Petitioner filed a sur reply on March 16, 2017 (ECF No. 29). On April 18, 2017, the Magistrate Judge denied Petitioner’s motion for discovery. ECF No. 30.

On May 24, 2017, the Magistrate Judge filed a Report and Recommendation (“Report”) recommending Respondent’s motion for summary judgment be granted. ECF No. 35. The same day, an appeal by Petitioner of the Magistrate Judge’s order denying discovery was taken to this court. ECF No. 37. Petitioner also filed a motion to stay proceedings while the appeal of the motion for discovery was pending. ECF No. 38. Respondent filed a response in opposition to the motion to stay (ECF No. 39).¹ On June 14, 2017, this court affirmed the Magistrate Judge’s order denying discovery and granted Petitioner’s motion to stay, to the extent it extended the time for filing objections to the Report. ECF No. 40. The court granted Petitioner an additional fourteen days to file objections, which were then due July 1, 2017 (due to the additional three days allowed by Fed. R. Civ. P. when served by mail). On July 12, 2017, this court issued an

¹ While Petitioner filed a reply, it was not received by the court until after the order was entered. See ECF No. 42.

order adopting the Report, granting Respondent's motion for summary judgment, and dismissing the matter with prejudice. ECF No. 43.

On July 14, 2017, the court received a motion for extension of time to file objections from Petitioner. ECF No. 46. The court denied this motion because the request was untimely: although the motion itself, in Petitioner's handwriting, was dated June 30 (within the time period allowed), a stamp on the envelope notes it was received in the Lee CI Mail Room on July 11, 2017. ECF No. 47. Petitioner thereafter filed the instant motion on July 26, 2017. ECF No. 50.

In his reply, Petitioner states his motion for extension to file objections to the Magistrate Judge's Report was untimely because "the institutional mailroom failed to send the mail out in time . . . when mailroom was in transition of training new staff to handle mail." ECF No. 52. It is true there seem to be some irregularities in the mailrooms. The envelope for Plaintiff's motion for extension (ECF No. 46) bears a stamp that states "SCDC MAIL ROOM Jul 29 2017," but another stating "RECEIVED LEE CI MAIL ROOM JUL 11 2017." This motion was postmarked July 13, 2017 and received at the District Court on July 14, 2017; therefore, the stamp bearing the date of July 29, 2017, cannot be correct. Similarly, the envelope with Petitioner's reply to this motion (ECF No. 52) has two stamps on it as well: "RECEIVED MAILROOM LIEBER CI AUG 14 2017" and "SCDC MAIL ROOM SEPT 1 2017." It was postmarked August 14 and received by the court August 17. Again, it is not possible for the September 1 stamp to be correct.

The irregularity in the correctional institution mailrooms was confirmed by the court's receipt of Petitioner's reply bearing two stamps, one of which could not be correct. This casts doubt on when Petitioner's motion for extension was actually given to the mailroom. Therefore,

due to these anomalies, it appears Petitioner is able to demonstrate he is not at fault for the “excusable neglect” rendering the motion for extension untimely.

Further, the non-moving party would be not be prejudiced by the relief from judgment. Respondent has already made its return and fully briefed its motion for summary judgment. ECF Nos. 22, 23. Respondent would not be required to file anything else if relief from judgment was granted: Petitioner would get a chance to file objections to the Report, but none would be required from Respondent.

Therefore, as Petitioner has demonstrated the requirements of Rule 60(b)(1), his motion is granted. The judgment of this court entered July 12, 2017 will be vacated, and Petitioner will have an opportunity to file his objections to the Report by October 6, 2017. No further extensions will be granted absent a showing of good cause.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
Senior United States District Judge

Columbia, South Carolina
September 5, 2017