

For the foregoing reasons, the Court **OVERRULES** Plaintiff's objections to the R & R and **ADOPTS** the Magistrate Judge's recommendation that this action be dismissed without prejudice.¹

AND IT IS SO ORDERED.



PATRICK MICHAEL DUFFY
United States District Judge

October 10, 2017
Charleston, South Carolina

1. The Court declines to issue a certificate of appealability. Petitioner has not made a substantial showing of a denial of a constitutional right. *See* 28 U.S.C. § 2253(c)(2); *Miller-El v. Cockrell*, 537 U.S. 322, 336–38 (2003) (in order to satisfy § 2253(c), a petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong); *Slack v. McDaniel*, 529 U.S. 474, 484 (2000) (holding that when relief is denied on procedural grounds, a petitioner must establish both that the correctness of the dispositive procedural ruling is debatable, and that the petition states a debatably valid claim of the denial of a constitutional right).