

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

Jack K. Doiley, #103490,)	C/A NO. 3:08-3175-CMC-JRM
)	
Petitioner,)	
)	OPINION and ORDER
v.)	
)	
State of South Carolina; and Warden of)	
Evans Correctional Institution,)	
)	
Respondents)	
_____)	

This matter is before the court on Petitioner’s *pro se* application for writ of habeas corpus, filed in this court pursuant to 28 U.S.C. § 2254.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(c), DSC, this matter was referred to United States Magistrate Judge Joseph R. McCrorey for pre-trial proceedings and a Report and Recommendation (“Report”). On October 1, 2009, the Magistrate Judge issued a Report recommending that Respondents’ motion for summary judgment be granted and this matter dismissed with prejudice. The Magistrate Judge advised Petitioner of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Petitioner filed objections to the Report on October 20, 2009.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by

the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b).

After reviewing the record of this matter, the applicable law, the Report and Recommendation of the Magistrate Judge, and Petitioner's objections, the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order. Petitioner argues in his objections that the statute of limitations and procedural default should not be applied to claims raised in his petition because these issues were not raised in the state courts due to ineffective assistance of counsel, and that the court should consider certain external factors (for example, educational level of Petitioner, accessibility to law) in consideration of his petition. These arguments are unavailing and do not point to any specific grounds upon which the Magistrate Judge may have erred in his analysis of the petition.

Respondents' motion for summary judgment is **granted** and this matter is dismissed with prejudice.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
October 27, 2009

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