

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

Paul Leslie Cox, #75206,	)	
	)	C/A No. 3:13-481-TMC
Petitioner,	)	
	)	
v.	)	<b>ORDER</b>
	)	
Warden Cartledge,	)	
	)	
Respondent.	)	
	)	

Petitioner, Paul Leslie Cox, a state prisoner proceeding *pro se*, filed this Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2), D.S.C., all pre-trial proceedings were referred to a Magistrate Judge. On March 13, 2013, Magistrate Judge Joseph R. McCrorey issued a Report and Recommendation ("Report") recommending the Petition be dismissed without prejudice. (Dkt. No. 7). The Petitioner filed an Amended Petition on March 29, 2013. (Dkt. No. 9).

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See 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 and Recommendation to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

Petitioner was advised of his right to file objections to the Report (Dkt. No. 7 at 5). However, Petitioner filed no objections to the Report.

In the absence of objections to the Magistrate Judge's Report, this court is not required to

provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Furthermore, failure to file specific written objections to the Report results in a party’s waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

As set forth above, Petitioner filed an Amended Petition on March 29, 2013. (Dkt. No. 9). Moreover, as the Magistrate Judge noted, Petitioner must obtain permission prior to filing a second or successive habeas petition. A review of the Amended Petition does not reflect any substantial additional factual allegations that have not already been addressed by the Report or would warrant additional review by the Magistrate Judge.

After a thorough review of the Report and the record in this case, the court adopts the Magistrate Judge’s Report and Recommendation (Dkt. No. 7) and incorporates it herein. It is therefore **ORDERED** that the Habeas Petition in the above-captioned case is **DISMISSED** without prejudice.

**IT IS SO ORDERED.**

s/ Timothy M. Cain  
United States District Judge

Anderson, South Carolina  
April 8, 2013

## **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.