

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

David A. Duren,)	Civil Action No. 3:16-342-MBS
)	
Petitioner,)	
)	
v.)	
)	ORDER AND OPINION
Bronwyn K. McElveen, Asst. Solicitor;)	
and John Milton, Policeman,)	
)	
Respondent.)	
_____)	

Petitioner David A. Duren (“Petitioner”), proceeding *pro se* and *in forma pauperis*, brings this action against Assistant Solicitor Bronwyn K. McElveen (“McElveen”), and Policeman John Milton (“Milton”) (collectively “Respondents”) pursuant to 42 U.S.C. § 1983.

I. FACTUAL AND PROCEDURAL BACKGROUND

Petitioner is a state prisoner at the Lieber Correctional Institution in Ridgeville, South Carolina. Petitioner is incarcerated for Burglary- Second Degree and is serving a life sentence. *See* South Carolina Department of Corrections: Incarcerated Inmate Search, <http://public.doc.state.sc.us/scdc-public/inmateDetails.do?id=00181965> (last visited July 21, 2016). Petitioner states that on May 7, 2015, he filed a “Notice of Understanding and Intent and Claim of Rights” and an “International Notice of Declaration Commercial Affidavit of Truth” with the Sumter County Clerk of Court in Sumter, South Carolina, and he served both McElveen and Milton “with papers letting [them] know that I a human being did not want to represent the entity called David A. Duren.” ECF No. 1 at 3. For relief, Petitioner requests the court vacate his sentences, award

Petitioner \$17,280,000 paid in “Federal Reserve Notes (Promissory Notes) or the same amount in gold or silver,” and “erase all record pertaining to the human being that the governmental entity called David A. Duren and to erase any pending charges.” ECF No. 1 at 4.

In accordance with 28 U.S.C. § 636(b) (2012) and Local Civil Rule 73.02, D.S.C., the matter was referred to United States Magistrate Judge Shiva V. Hodges for a Report and Recommendation. The Magistrate Judge reviewed the Complaint pursuant to 28 U.S.C. § 1915(e)(2)(B). The Magistrate Judge issued a Report and Recommendation on February 10, 2016. ECF No. 9. The Magistrate Judge determined that Petitioner’s Complaint makes insufficient factual allegations to allege any constitutional violations, and seeks relief unavailable under a § 1983 action. *Id.* Accordingly, the Magistrate Judge recommended that the Complaint be summarily dismissed without prejudice. *Id.* Petitioner filed an objection to the Report and Recommendation on April 25, 2015. ECF No. 10.

Petitioner’s objection reads in part as follows, verbatim:

As the attached document will show this suit has nothing to do with my conviction. This matter took place prior to my conviction. This is a different matter altogether. A transcript of court record dated May 19, 2015 will show that the court was, as well as Asst. Solicitor Bronwyn K. McElveen and Policeman John Milton was put on Judicial Notice in open court, that I a human being reserved all my rights and waiver none.

ECF No. 17 at 1.

II. DISCUSSION

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight and the responsibility for making a final determination remains with this court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. *Id.*

The court is charged with making a *de novo* review of any portions of the Report and Recommendation to which a specific objection is made. *Id.* The district 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 Judge's proposed findings and recommendations. *Orpiano v. Johnson*, 687 F.2d 44, 47-48 (4th Cir. 1982). Petitioner's response does not rebut the Magistrate Judge's conclusion that the Complaint should be summarily dismissed.

The court adopts the Report and Recommendation of the Magistrate Judge and incorporates it herein by reference. The Complaint is dismissed without prejudice.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Margaret B. Seymour
Senior United States District Court Judge

July 23, 2016
Columbia, South Carolina