

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

Juan Calderon,)
)
Petitioner,)
)
v.)
)
United States of America,)
)
Respondent.)
_____)

C/A No.: 4:17-cv-1135-TLW

ORDER

Petitioner Juan Calderon, proceeding *pro se*, filed this petition seeking habeas relief ECF No. 1. This matter now comes before this Court for review of the Report and Recommendation (“the Report”) filed on June 27, 2017, by United States Magistrate Judge Thomas E. Rogers, to whom this case was previously assigned pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Civ. Rule 73.02(B)(2)(c), (D.S.C.). In the Report, the Magistrate Judge recommends that this Court dismiss the petition with prejudice. ECF No. 12. The deadline to file Objections to the Report was July 11, 2017. However, Petitioner failed to file objections. This case is now ripe for disposition.

The Court is charged with conducting a *de novo* review of any portion of the Report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained therein. 28 U.S.C. § 636. However, in the absence of objections to the Report, the Court is not required to give any explanation for adopting the Magistrate Judge’s recommendation. *See Camby v. Davis*, 718 F.2d 198, 200 (4th Cir. 1983). In such a case, “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 & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory

committee's note).

In light of this standard, the Court has carefully reviewed the Report, the relevant filings, and the applicable law, and notes that Petitioner has not filed objections to the Report. After careful consideration, the Court accepts the detailed factual and legal analysis by the Magistrate Judge in the Report. It is hereby **ORDERED** that the Report, ECF No. 12, is **ACCEPTED**. For the reasons stated in the Report, the Petition, ECF No. 1, is **DISMISSED** with prejudice and without requiring the respondent to file a return.

To the extent that this Petition may be construed to request relief pursuant to 28 U.S.C. § 2255,¹ the Court has reviewed this Petition in accordance with Rule 11 of the Rules Governing Section 2255 Proceedings. The Court concludes that it is not appropriate to issue a certificate of appealability as to the issues raised herein. Petitioner is advised that he may seek a certificate from the Fourth Circuit Court of Appeals under Rule 22 of the Federal Rules of Appellate Procedure.

IT IS SO ORDERED.

s/Terry L. Wooten
Chief United States District Judge

July 26, 2017
Columbia, South Carolina

¹ Unlike in a § 2254 or § 2255 proceeding, it is not necessary for a petitioner to obtain a certificate of appealability to appeal an order dismissing a § 2241 petition. *Sanders v. O'Brien*, 376 F. App'x 306, 307 (4th Cir. 2010).