Davis v. South Carolina Department of Corrections et al Doc. 50

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

Joe Davon Davis,	)	
	)	C.A. No. 6:09-cv-03329-JMC
Petitioner,	)	
	)	
v.	)	**ORDER**
	)	
Warden Levern Cohen, Ridgeland CI,	)	
	)	
Respondent.	)	
_____	)	

Petitioner Joe Devon Davis ("Petitioner") brings this action against Respondent Warden Levern Cohen, Ridgeland CI ("Respondent") claiming he was denied due process protections during the course of a disciplinary hearing. Petitioner seeks habeus corpus relief under 28 U.S.C. § 2241.

The Magistrate Judge's Report and Recommendation [Entry # 47], filed on October 22, 2010, recommends Respondent's Motion for Summary Judgment [Entry # 28] be granted. The Report and Recommendation sets forth in detail the relevant facts and legal standards on this matter, and the court incorporates the Magistrate Judge's recommendation herein without a recitation. The Magistrate Judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. 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

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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).

Plaintiff was advised of his right to file objections to the Report and Recommendation [Entry # 47-1, at 1]. However, Plaintiff filed no objections to the Report and Recommendation.

In the absence of objections to the Magistrate Judge's Report and Recommendation, 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 and Recommendation 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).

After a thorough review of the Report and Recommendation and the record in this case, the court adopts the Magistrate Judge's Report and Recommendation [Entry # 47] and incorporates it herein. It is therefore **ORDERED** that Respondent's Motion for Summary Judgement [Entry # 28] is granted.

IT IS SO ORDERED.

s/ J. Michelle Childs
United States District Judge

Greenville, South Carolina
November 16, 2010