

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

Ralph Leon Bailey, Jr., )  
)  
Petitioner, )  
)  
vs. )  
)  
Warden McCall, )  
)  
Respondent. )  
)  
\_\_\_\_\_ )

Civil Action No. 6:11-832-TLW-KFM

**ORDER**

Petitioner Ralph Leon Bailey, Jr., (“Petitioner”), brought this civil action, *pro se*, pursuant to 28 U.S.C. § 2254 on April 8, 2011. (Doc. # 1).

The matter now comes before this Court for review of the Report and Recommendation (“the Report”) filed by United States Magistrate Judge Kevin F. McDonald, to whom this case had previously been assigned. In the Report, the Magistrate Judge recommends that the Respondent’s Motion for Summary Judgment be granted and that Petitioner’s § 2254 petition be dismissed. (Doc. # 38). Objections to the Report were due by February 8, 2013. Petitioner has filed no objections to the Report.

This Court is charged with conducting a de novo review of any portion of the Magistrate Judge’s Report and Recommendation to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that Report. 28 U.S.C. § 636. In the absence of objections to the Report and Recommendation of the Magistrate Judge, this Court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The Court has carefully reviewed the Magistrate Judge’s Report and Recommendation. For the reasons articulated by the Magistrate Judge, it is hereby **ORDERED** that the Magistrate

Judge's Report and Recommendation is **ACCEPTED**. (Doc. # 38). The Court's decision to accept the Magistrate Judge's time-bar analysis is based in significant part upon the holding in the Fourth Circuit case of Crawley v. Catoe, 257 F.3d 395 (4<sup>th</sup> Cir. 2001). As indicated in the Respondent's brief, Crawley instructs that "[f]ollowing the denial of relief in the state courts in state habeas proceedings, neither the time for filing a petition for certiorari in the United States Supreme Court, nor the time a petition for certiorari is considered... is tolled under 28 U.S.C. § 2244(d)(2) from the one year statute of limitations under § 2244(d)(1)." Crawley, 257 F.3d at 399. The Respondent's Motion for Summary Judgment is therefore **GRANTED**. (Doc. # 26). The Petitioner's application is **DENIED** and the action is **DISMISSED**.

The Court has reviewed this petition in accordance with Rule 11 of the Rules Governing Section 2254 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.**

February 28, 2013  
Columbia, South Carolina

s/Terry L. Wooten  
Chief United States District Judge