

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

Anthony R. Taylor, #197565,)
Petitioner,) Civil Action No.: 6:12-cv-02831-TLW
vs.)
Cecilia R. Reynolds, *Warden*,)
Respondent.)

)

ORDER

Petitioner, Anthony R. Taylor (“petitioner”), brought this habeas corpus action, *pro se*, pursuant to 28 U.S.C. § 2241 on October 2, 2012. (Doc. #1). Petitioner placed his allegations on a § 2254 Petition form and indicates that he is filing the § 2241 Petition pursuant to Local Civil Rule 83.VIII.06 and pursuant to 28 U.S.C. § 2241(c)(3).

This 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 pursuant to 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2) (D.S.C.). (Doc. #9). In the Report, Magistrate Judge McDonald recommends that the District Court dismiss the § 2241 Petition in the above-captioned case without prejudice and without requiring the respondent to file an Answer or return. (Doc. # 9). In the Report, Magistrate Judge McDonald also recommends that the District Court deny a Certificate of Appealability. (Doc. #9). Petitioner filed objections to the Report on October 25, 2012. (Doc. #11).

This Court is charged with conducting a de novo review of any portion of the Magistrate Judge’s Report 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 conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections. . . . The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of the standard set forth in Wallace, this Court has reviewed, *de novo*, the Report (Doc. #9) and the objections (Doc. #11). After careful review of the Report and objections thereto, this Court **ACCEPTS** the Report. (Doc. #9). Therefore, for the reasons articulated by the Magistrate Judge, **IT IS HEREBY ORDERED** that the Magistrate Judge's Report is **ACCEPTED** (Doc. #9), petitioner's objections are **OVERRULED** (Doc. #11); and the Petition in the above-captioned case is dismissed without prejudice and without requiring the respondent to file a return.

This 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. Therefore, petitioner's Motion for Consideration of Certificate of Appealability is **DENIED** (Doc. #12). 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
United States District Judge

October 31, 2012
Florence, South Carolina