



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ANDERSON/GREENWOOD DIVISION

KEONAKAMERAH POSTELL,  
Petitioner,

vs.

MCKITHER BODISON,  
Respondent.

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CIVIL ACTION NO. 8:09-3232-HFF-BHH

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ORDER

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This case was filed as a 28 U.S.C. § 2254 action. Petitioner is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that Respondent's Motion for Summary Judgment (Dkt. # 15) be granted and the habeas petition be dismissed with prejudice. The Report was made in accordance with 28 U.S.C. § 636 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 the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on September 13, 2010, and the Clerk of Court entered Petitioner's objections on November 29, 2010.

Petitioner states in his objections that his trial counsel was ineffective for failing to object to “the hearsay statements of Dietrich Norman that violated the Confrontation Clause” (Objs. 6) and “the 75 year sentence handed down by the trial court which was contrary to legislative intent and violated the Sixth, Eighth and Fourteenth Amendments” (Objs. 27-28). He then goes on generally to make the same arguments to this Court that the Magistrate Judge considered and rejected in her comprehensive and well-reasoned Report. In that the Magistrate Judge has already dealt with these arguments once in the Report, and the Court agrees with the rationale set forth therein, the Court need not discuss Petitioner’s contentions a second time here.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court overrules Petitioner’s objections, adopts the Report, and incorporates it herein. Therefore, it is the judgment of the Court that Respondent’s Motion for Summary Judgment (Dkt. # 15) is **GRANTED** and the habeas petition is **DISMISSED** with prejudice.

To the extent that Petitioner requests a certificate of appealability from this Court, that certificate is **DENIED**.

**IT IS SO ORDERED.**

Signed this 29th day of November, 2010, in Spartanburg, South Carolina.

s/ Henry F. Floyd  
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HENRY F. FLOYD  
UNITED STATES DISTRICT JUDGE

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**NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.