

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

Marcus A. Joseph, #147764,)	
)	
Petitioner,)	Civil Action No. 8:14-cv-4100-RMG
)	
v.)	
)	ORDER
Warden B. McKie,)	
)	
Respondent.)	
_____)	

Marcus A. Joseph, Petitioner, a state prisoner proceeding pro se, has filed a habeas petition pursuant to 28 U.S. C. § 2254. This matter is before the Court on the Report and Recommendation (“R&R”) of the Magistrate Judge (Dkt. No. 12) recommending that this Court summarily dismiss the petition. The Court hereby adopts the R&R.

Upon the issuance of the R&R, Petitioner was advised that any written objections to the R&R must be made within 14 days of service, and that in the absence of timely written objections this Court would provide limited “clear error” review and Petitioner would waive his right to appeal the judgment of the District Court. (Dkt. No. 12 at 8). Petitioner has not filed objections to the R&R.

The Court has reviewed the R&R, the full administrative record in this matter and the relevant legal authorities. The Court finds that the Magistrate Judge ably and promptly summarized the factual and legal issues and appropriately recommended that the petition be dismissed since the Court does not have jurisdiction to consider it. Therefore, the Court hereby **adopts** the R&R as the order of this Court and **dismisses** the petition.

The governing law provides that:

(c)(2) A certificate of appealability may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right.

(c)(3) The certificate of appealability . . . shall indicate which specific issue or issues satisfy the showing required by paragraph (2).

28 U.S.C. § 2253(c). A prisoner satisfies the standard by demonstrating that reasonable jurists would find this court's assessment of his constitutional claims debatable or wrong and that any dispositive procedural ruling by the district court is likewise debatable. *See Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Rose v. Lee*, 252 F.3d 676, 683 (4th Cir. 2001). In this case, the legal standard for the issuance of a certificate of appealability has not been met. Therefore, a certificate of appealability is **denied**.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court Judge

December 21, 2014
Charleston, South Carolina