

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).

Conclusion

After a thorough review of the Report and the record in this case, the court adopts the Magistrate Judge’s Report and Recommendation (ECF No. 17) and incorporates it herein. Therefore, Petitioner’s habeas petition is **DISMISSED** without prejudice and without requiring Respondent to file an answer or return.

Furthermore, the court finds that a pre-filing injunction is warranted for the reasons stated in the Report. Therefore, the court imposes the following **pre-filing injunction**:

1. Upon Petitioner submitting a habeas corpus petition pursuant to 28 U.S.C. § 2254 that seeks to attack his Spartanburg County April 16, 1987 kidnapping conviction and/or sentence of life imprisonment, the Clerk of Court shall assign a case number (for docket control purposes) and send the case to the assigned magistrate judge for review in order for the magistrate judge to determine whether Petitioner alleges he has written permission from the Court of Appeals to file the action.

2. When appropriate, the magistrate judge shall direct Petitioner to provide written authorization from the Court of Appeals within a certain time frame.

3. Should Petitioner fail to provide written authorization from the Court of Appeals within the certain time frame, the action will be dismissed without prejudice and without issuance and service of process.

In addition, a certificate of appealability will not issue to a prisoner seeking habeas relief absent “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). A prisoner satisfies this standard by demonstrating that reasonable jurists would find both that his

constitutional claims are debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. *See Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003); *Rose v. Lee*, 252 F.3d 676, 683 (4th Cir. 2001). In this case, the court finds that the petitioner has failed to make a substantial showing of the denial of a constitutional right. Accordingly, the court declines to issue a certificate of appealability.

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

January 30, 2017
Anderson, South Carolina