

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

Asherdon Fari Holloway,)
)
 Petitioner,)
)
 v.)
)
 Warden Stevenson,)
 Respondent.)
 _____)

Civil Action No.: 8:16-cv-03023-JMC

ORDER

This matter comes before the court on *Pro se* Petitioner Asherdon Fari Holloway’s (“Petitioner”) Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 (hereafter “Petition”). Petitioner alleges that his plea counsel was ineffective for “failing to object to the murder sentence handed down as excessive, disproportionate, and the result of passion and prejudice” (ECF No. 1 at 5-7.) Petitioner further contends that his plea counsel was ineffective “for failing to ask the consecutive sentences handed down by court be ran concurrent since this was entirely in the discretion of the Court.” (*Id.*) On November, 16, 2016, Respondent filed a Motion for Summary Judgment. (ECF No. 15.)

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, the matter was referred to United States Magistrate Judge Jacquelyn D. Austin for pre-trial handling. On July 11, 2017, the Magistrate Judge issued a Report and Recommendation recommending the court to grant Respondent’s Motion for Summary Judgement and deny Petitioner’s Petition. (ECF No. 40.) The Magistrate Judge determined that Petitioner failed to demonstrate that his plea counsel’s representation was below the objective standard of reasonableness or that Petitioner was prejudiced. (ECF No. 40 at 20.) The Report sets forth in detail the relevant facts and legal standards on this

matter which the court incorporates herein without a recitation.

The Magistrate Judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. "The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination." *Wallace v. Hous. Auth.*, 791 F. Supp. 137, 138 (D.S.C. 1992) (citing *Matthews v. Weber*, 423 U.S. 261, 271 (1976)). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

Petitioner was advised of his right to file objections to the Report. (ECF No. 40 at 22.) However, Petitioner filed no objections to the Report. In the absence of objections to the Magistrate Judge's Report, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to 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). Furthermore, failure to file specific written objections to the Report results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

After a thorough review of the Report and Recommendation and the record in this case, the court adopts the Magistrate Judge's Report and Recommendation and incorporates it herein. (ECF No. 40.) It is therefore **ORDERED** that Petitioner's Petition for Writ of Habeas Corpus pursuant

to 28 U.S.C. § 2254 (ECF No. 1) is **DENIED** and Respondent's Motion for Summary Judgment (ECF No. 15) is **GRANTED**.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "J. Michelle Childs". The signature is written in a cursive style with a large initial "J".

United States District Judge

July 27, 2017
Columbia, South Carolina