

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

Frank M. Gaster,)	
)	Civil Case No. 8:21-01449-HMH-JDA
Petitioner,)	
)	
vs.)	OPINION & ORDER
)	
Director Neil Johnson,)	
)	
Respondent.)	

This matter is before the court for review of the Report and Recommendation of United States Magistrate Judge Jacquelyn D. Austin, made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina.¹ Frank M. Gaster (“Gaster”), a state detainee at the Georgetown County Detention Center, seeks habeas corpus relief pursuant to 28 U.S.C. § 2241, challenging his detention pursuant to a civil commitment petition filed under S.C. Code § 44-48-10, the Sexually Violent Predator Act (“SVP”). In her Report and Recommendation filed on June 10, 2021, Magistrate Judge Austin recommends dismissing the petition without requiring Respondent to file a return because Gaster’s claims

¹ The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See 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 and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

are not properly before the court based on the Younger abstention doctrine. Younger v. Harris, 401 U.S. 37 (1971).

Gaster filed objections to the Report and Recommendation on June 18, 2021.² (Objs., ECF No. 14.) Objections to the Report and Recommendation must be specific. Failure to file specific objections constitutes a waiver of a party's right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. See United States v. Schronce, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). In the absence of specific objections to the Report and Recommendation of the magistrate judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

Upon review, the court finds that Gaster's objections are non-specific, unrelated to the dispositive portions of the Report and Recommendation, or merely restate his claims. Accordingly, after review, the court adopts Magistrate Judge Austin's Report and Recommendation and incorporates it herein by reference.

It is therefore

ORDERED that Gaster's petition, docket number 1, is dismissed without requiring Respondent to file a return. It is further

ORDERED that a certificate of appealability is denied because Gaster has failed to make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2).³

² Houston v. Lack, 487 U.S. 266 (1988).

³ District courts must issue certificates of appealability when entering "a final order adverse to the applicant." Rule 11(a), Rules Governing § 2254 Cases. These rules may be

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
Senior United States District Judge

Greenville, South Carolina
June 23, 2021

NOTICE OF RIGHT TO APPEAL

The Petitioner is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

applied to other types of habeas corpus petitions. Rule 1(b), Rules Governing § 2254 Cases.