

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

Issac R. Belt,)	
)	
Petitioner,)	C/A No. 9:11-1054-TMC
)	
v.)	OPINION & ORDER
)	
)	
Darlene Drew, Warden,)	
)	
Respondent.)	
)	

Petitioner, a federal prisoner proceeding *pro se*, filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 on May 4, 2011. (Dkt. # 1). Petitioner, an inmate with the Federal Bureau of Prisons (BOP), contests his conviction on a disciplinary charge. On July 7, 2011, Respondent filed a Motion to Dismiss and a Motion for Summary Judgment. (Dkt. # 14). Because Petitioner is proceeding *pro se*, the court entered an order pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), on July 8, 2011, advising Petitioner of the motion for summary judgment procedures and the possible consequences if he failed to adequately respond. (Dkt. # 15). An Order was filed on August 12, 2011 providing the Petitioner with an additional ten days to file a response to the Motion for Summary Judgment. (Dkt. # 17). Petitioner thereafter timely filed his Response in Opposition to the Summary Judgment Motion. (Dkt. # 19).

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2), D.S.C., all pre-trial proceedings were referred to a Magistrate Judge. On September 20, 2011, Magistrate Judge Bristow Marchant issued a Report and Recommendation ("Report") recommending that Respondent's Motion for Summary Judgment (Dkt. # 14) be granted

and the Petition be dismissed with prejudice. (Dkt. # 21). The Magistrate Judge provided Petitioner a notice advising him of his right to file objections to the Report. (Dkt. # 21 at 9). Petitioner filed objections to the Magistrate Judge's Report on October 11, 2011. (Dkt. # 23). The objections are essentially recitations of the allegations set forth in the Petition filed on May 4, 2011.

Standard of Review

The Magistrate Judge makes only a recommendation to the 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, 270-71 (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 court is obligated to conduct a de novo review of every portion of the Magistrate Judge's report to which objections have been filed. *Id.* However, the court need not conduct a de novo review when a party makes only "general and conclusory objections that do not direct the court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). In the absence of a timely filed, specific objection, the Magistrate Judge's conclusions are reviewed only for clear error. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

Discussion

The Magistrate Judge recommended Respondent's Motion for Summary Judgment be granted. The Magistrate Judge determined that the Petitioner's Uniform Disciplinary Hearing was conducted in a manner which satisfied the requirements set forth in Wolff v. McDonnell, 418 U.S. 539 (1974) such that the Petitioner's claim of a violation of due process was without merit. The Magistrate Judge further concluded that the Petitioner's claim of actual innocence was without merit when viewed in light of Superintendent, Massachusetts Correction Institution v. Hill, 472 U.S. 445 (1985), and that the Petitioner's claim of excessive discipline at the highest level based on an alleged vague regulation was without foundation. The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court finds Petitioner's objections are without merit. Accordingly, the court adopts the Report and incorporates it herein. It is therefore **ORDERED** that Respondent's Summary Judgment Motion (Dkt. # 14) is **GRANTED** and the Petition is **DISMISSED** with prejudice.

IT IS SO ORDERED.

The parties are referred to the Notice of Right to Appeal on the following page.

s/Timothy M. Cain
United States District Judge

December 21, 2011
Greenville, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.